



House of Commons
Home Affairs Committee

Counter-terrorism

**Seventeenth Report of Session 2013–
14**

*Report, together with formal minutes and oral
evidence*

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Home Affairs Committee

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1 Introduction

1. Since the events of 11 September 2001, UK counter-terrorism policy has changed immeasurably. The pace of that change was increased again following the events of 7 July 2005. In their written evidence to this inquiry the Government informed us that there had been six foiled terrorist plots since April 2010.¹

2. However, as the terrorist threat changes and evolves, so too must British counter-terrorism policy. The changes to the threat are not gradual, they are not predictable and their solutions are not always obvious. In the past three years the Arab Spring has had an unforeseeable impact on the threat landscape as there has been an increase in ungoverned spaces and the large number of foreign fighters who have travelled to Syria, and might have been indoctrinated to present a threat. Indeed, far from a more benign threat picture, which we might have been hoped for after thirteen years of intensive counter-terrorism operations, the situation today seems more complex. The threat from terrorism has dramatically changed since 2001. Today there are more Al Qa'ida inspired terrorist groups than in 2001, spread across a wider geography, with a more diverse and evolving set of capabilities. A common feature among these terrorist groups is that the UK features as a primary target. We have included a full threat assessment as an annex to this report.

3. We took evidence on a wide range of issues, focusing primarily on three elements of our terms of reference for this inquiry:

- Whether the UK has sufficient capability to detect, investigate and disrupt terrorist threats.
- The effectiveness of the Government in working with foreign Governments and Multi-lateral organisations to counter terrorist threats at home and abroad.
- Whether the UK effectively supports allies in building capacity to investigate and prosecute terrorists based overseas.

We would like to thank everyone who assisted us with this inquiry: those who gave evidence to us; officials from the Kenyan and British Governments who we met in Nairobi; and Google and YouTube, who hosted a seminar on counter-radicalisation narratives for us. We would also like to thank our special adviser, Charlie Edwards, of the Royal United Services Institute.

¹ [INQ0007](#)

2 Threat Assessment

4. The threat from terrorism to the UK and its interests overseas is more diverse and geographically dispersed than it was a decade ago. In a speech to the Royal United Services Institute (RUSI) in February 2013, the Foreign Secretary said that the greatest terrorist threat to the UK remained Al Qa'ida and its ideology, and suggested that the nature of the threat had changed in three principal ways:

First, it is geographically more diverse. We face a determined 'Al Qaeda core' in Pakistan and Afghanistan's border region, and multiple groups inspired by Al Qaeda in the world's most fragile regions. Second, the threat is more fragmented. Al Qaeda does not control a franchise of groups all operating to the same agenda, however much they would like us to think this. Third, terrorism today is based even more closely on the exploitation of local and regional issues. Terrorists are constantly searching out new areas where they have the greatest freedom to plan external attacks.²

5. We heard evidence that the threat is not only diversifying in terms of geography — with Syria becoming the latest battleground for terrorist groups — but in methodology, as terrorists collaborate and coordinate their actions, both online and offline, sharing information, skills and expertise. The evolution of the terrorist threat in Syria and the increasing reality of foreign fighters travelling back to the UK from Syria in order to carry out an attack on the British mainland is the latest, troubling development.³

6. While Syria is a priority concern for the Government, the UK still faces a significant threat from Al Qa'ida (AQ) based along the border between Afghanistan and Pakistan, groups such as Al Qa'ida in the Arabian Peninsula (AQAP) in Yemen and Al Qa'ida in the Islamic Maghreb (AQIM) in West Africa.

7. In recent times there have been reminders of the global nature of the terrorist threat and its ability to impact upon UK interests. The attack on In Amenas, in Algeria, included six British citizens amongst the 40 dead. Following the attack on the Westgate shopping Mall in Nairobi (in which six British citizens also died), Al Shabaab, a terrorist group based in Somalia, remains capable of mounting attacks throughout Kenya and against targets in the Horn of Africa. The bomb blast in Addis Ababa which killed two people in late 2013 could be a sign Al Shabaab are beginning to target Ethiopia.

8. Kidnapping for ransom has become an increasingly common terrorist tactic. Over 150 foreign nationals have been kidnapped by Islamist terrorist groups since 2008 (at least 13 of whom were British nationals). Numbers kidnapped in 2012 (almost 50) were more than double those in 2010. In many cases ransoms have been paid, and the British Government

² <https://www.gov.uk/government/speeches/countering-terrorism-overseas>

³ Ruth Sherlock, Gaziantep, and Tom Whitehead, Al-Qaeda training British and European 'jihadists' in Syria to set up terror cells at home, Daily Telegraph, 19 Jan 2014

conservatively estimates that AQ affiliates and other extremist groups have collected at least \$60 million in foreign national ransom payments since 2008.

9. The Government's CONTEST strategy identifies Afghanistan, Pakistan, Yemen, Somalia and Nigeria as priority countries for the UK's counter-terrorism work overseas. The United States Government's National Counterterrorism Centre estimates that the number of terrorist attacks around the world has levelled off following a rapid increase between 2003 and 2008, but the global threat from terrorism remains high.⁴ According to the CONTEST Annual Report published in 2014 there were there were nearly 8,500 terrorist attacks in 85 countries, causing nearly 15,500 fatalities.⁵

The United Kingdom

10. According to Home Office figures, between April 2010 and March 2013, 580 individuals were arrested in Great Britain for terrorism-related offences.⁶ The breakdown of arrests, along with figures for the past year can be found in the table below.

	Domestic terrorism	Northern Irish terrorism	International terrorism	Not Classified	Total
2012-2013	33	4	182	30	249
2010-2013	80	9	446	45	580

From <https://www.gov.uk/government/publications/operation-of-police-powers-under-the-terrorism-act-2000-2012-to-2013/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-arrests-outcomes-and-stop-and-searches-great-britain-2012-to-20>

The outcomes of those arrests can be found in the table below.

	Charged				Released	Alternative action taken	Total
	Under Terrorism Act 2000	Under Schedule 7 of the Terrorism Act 2000	With terrorism offences under other legislation	With non-terrorism related offences			
2012-2013	31	4	2	68	105	39	249
2010-2013	78	8	12	143	285	54	580

From <https://www.gov.uk/government/publications/operation-of-police-powers-under-the-terrorism-act-2000-2012-to-2013/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-arrests-outcomes-and-stop-and-searches-great-britain-2012-to-20>

11. David Anderson QC, the Independent Reviewer of Terrorism Legislation, suggested to us that Jonathan Evans, then Director General of MI5, was not exaggerating when he said in 2012 that "Britain has experienced a credible terrorist attack about once a year since 9/11."⁷ Mr Anderson went on to say:

The will and capacity to commit 7/7 style atrocities in the United Kingdom may well still exist, as demonstrated by the Birmingham rucksack bomb plot of 2011. Significant numbers of British citizens have lost their lives abroad

⁴ [CONTEST Annual Report](#), Home Office, March 2013, Cm 8583

⁵ [CONTEST Annual Report](#), Home Office, April 2014, Cm 8848

⁶ [INQ0007](#)

⁷ [CTE0017](#)

this year to terrorism, notably in the Algerian gas plant and Nairobi shopping mall attacks. In Great Britain, 43 persons were charged with terrorism-related offences during 2012 – a figure precisely in line with the average since 2001.⁸

12. We understand that, in the past few years, the police, security and intelligence agencies have seen a trend towards 'low signature' terrorism by small, self-directed groups and lone actors. These individuals or groups develop the intent and capability to conduct attacks without support or direction from AQ or AQ affiliates.⁹

13. We also heard that the police were concerned with so-called 'self-starters': individuals who radicalise themselves (often over the internet) and plan attacks independently. Their attack methods tend to be simple, requiring little money or technical ability, and detecting and disrupting such threats is therefore a significant challenge.¹⁰ An example of such an attack occurred last year when Pavlo Lapshyn, a Ukrainian student, was convicted of murdering an 82-year-old man and planning to cause explosions near mosques in racist attacks.¹¹

14. Many of the trends outlined above have been identified by Government. The CONTEST strategy included the following series of planning assumptions:

- The death of Osama bin Laden will further damage the operational capability of Al Qa'ida in Pakistan and Afghanistan. Continued international pressure will make it harder for the Al Qa'ida senior leadership to plan and conduct terrorist attacks. Al Qa'ida will try to exploit the withdrawal of western forces from Afghanistan.
- Al Qa'ida affiliates may continue to grow, taking advantage of state fragility and failure. They will all aspire to attack western targets. The Al Qa'ida senior leadership will try to guide and direct its affiliates but will not exert close control: Al Qa'ida will continue to become less of an organisation and more of a movement.
- A wider range of Al Qa'ida inspired terrorist networks, groups and unaffiliated individuals will collaborate to launch attacks against the West, sharing resources and capabilities.
- Current political and social change in the Middle East and North Africa has undermined the credibility of Al Qa'ida and like-minded terrorist groups and may continue to do so; but terrorist groups will try to adapt their propaganda and will exploit uncertainty and instability in the region.
- The process of radicalisation will continue: the ideology which has come to be associated with Al Qa'ida will be more resilient than Al Qa'ida itself. Extremist material

⁸ CTE0017

⁹ CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2011, Cm 8123

¹⁰ INQ0007

¹¹ Mosque bomber Pavlo Lapshyn given life for murder, 25 October 2013, <http://www.bbc.co.uk/news/uk-england-birmingham-24675040>

on the internet will continue to motivate some people to engage in terrorism but will rarely be a substitute for the social process of radicalisation.

- Terrorist groups will use a range of attack techniques, both established and new. There will be more cyber terrorism. Groups will continue to benefit from off-the-shelf technology in planning and conducting attacks, making operations more secure and potentially more lethal. The internet and virtual space will be strategically vital.
- Organisations will seek to conduct attacks which cause mass casualties or otherwise have visible mass disruptive impact. Al Qa'ida and other groups will maintain their long-term interest in using chemical, biological, radiological and nuclear materials.
- Geographically, vital countries for our counter-terrorism work will continue to be Afghanistan and Pakistan, Yemen, Somalia and Nigeria.
- Some states will continue to support terrorist groups to try to protect their own strategic interests.
- Terrorists in Northern Ireland will continue to conduct attacks in an attempt to reverse the peace process. Some groups will aspire to conduct attacks inside Great Britain.
- There will continue to be isolated individuals who engage in terrorist activity in the name of extreme right or left-wing views or other ideologies. They will not pose as high a risk to our national security as terrorism associated with Al Qa'ida.¹²

15. We asked Charles Farr, the Director General of the Office for Security and Counter Terrorism whether he was satisfied with the planning assumptions two years on. He replied:

I am satisfied that our planning assumptions in 2011 continue to be relevant. They do not mention Syria specifically though they do refer to the likely increase in activity by Al Qa'ida affiliates and their exploitation of instability in the Middle East. Syria of course reflects these broad trends.¹³

Global

Syria

16. Syria is the current theatre of choice for foreign fighters, something which should be of great concern for EU Member States, given the country's proximity to Europe, and ease of travel to its main cities. Dr Thomas Hegghammer, Director of Terrorism Research at The Norwegian Defence Research Establishment, suggested that while there are not strong signals of a concerted effort by terrorist groups on the ground in Syria to target the West:

¹² [CONTEST: The United Kingdom's Strategy for Countering Terrorism](#), July 2011, Cm 8123

¹³ [INQ0010](#)

There have been some indications in the past six months that such a change might happen...Those indications include statements and threats by foreign fighters in Syria—including British ones—and reports conveyed by intelligence officials, like James Clapper in the US, that dominant groups in Syria have now established training camps dedicated to the grooming of operatives in the west.¹⁴

Dr Hegghammer went on to say that foreign fighters in Syria were present in unprecedented numbers:

No other conflict in the Muslim world in recent history has attracted the same number that we are now seeing in Syria. The best estimates we have speak of 2,000 Europeans in Syria, which I believe is more than the total number of European foreign fighters in all previous conflict zones combined.¹⁵

17. The potential threat was confirmed by Mr Farr, when he suggested the UK faces the threat of a terrorist attack from Syria-based groups which may make use of foreign fighters (including British citizens).¹⁶ Further on in this report, we discuss the position over UK citizens travelling to Syria to assist in the fighting.

Afghanistan and Pakistan

18. While Syria is the focus of much attention, there remains a significant terrorism threat emanating from the border between Afghanistan and Pakistan and the Government recognises the threat from terrorist groups operating in the tribal areas along the Afghan border. This has long been a priority for our national security.

19. Although Al Qa'ida is much reduced in number, it continues to operate from this region and still has the capability to conduct terrorist attacks in the UK and other countries. The leadership of Al Qa'ida (based in the Federally Administered Tribal Areas of Pakistan) has been severely weakened by operations conducted by the Pakistan Government. However British citizens still travel to the region and return to the UK to conduct attacks. We cannot afford to allow the considerable coverage of the Syrian conflict to distract us from the threat posed by extremists within this region. As the Government notes:

Operational capability of Al Qa'ida's leadership is now less than at any time since 11 September 2001. Many have been killed, captured, or dispersed. Communications, training and planning have been significantly disrupted. Al Qa'ida's senior leadership has been forced to rely more on other terrorist

¹⁴ Q566

¹⁵ Q554

¹⁶ Q187

groups for operational support and has increasingly called for extremists to conduct independent attacks without further guidance or instruction.¹⁷

Horn of Africa

20. The appalling September 2013 attack on the Westgate Mall in Nairobi, Kenya demonstrated the intent and capability of Al Shabaab, the Somali terrorist group. The attack in Nairobi is the most serious act of terrorism in Kenya since Islamist extremists attacked the US Embassy in 1998, but it is by no means an isolated event in the region. We visited the Westgate Mall during, accompanied by a British police officer based in Nairobi, and were horrified at the devastation which had been wrought by a very small group of people, using simple, inexpensive technology.

21. The recent shooting of Sheikh Abubakar Shariff is likely to undermine community relations in some areas of Kenya. His death follows similar shootings in Mombasa and the storming of Musa Mosque in the city, during which at least eight people were killed (including a policeman) and Kenyan Police arrested 129 people, including children. Many of the suspects have been released following public condemnation.

22. In Somalia, some progress has been made by the Somali Government in containing the threat posed by Al Shabaab however these are fragile gains. Al Shabaab remains capable of mounting attacks throughout the country, collaborating with other terrorist organisations (such as AQAP in Yemen) and aspires to attack targets in the region, including UK interests. Al-Shabaab conducted over 30 attacks – including 10 suicide bombings – in 2010 alone.¹⁸

23. In 2012 the terrorist group launched fewer attacks but remained in control of a substantial area of South Central Somalia. However, 2013 saw an increase in the number of attacks and in April, approximately thirty people were killed when Al-Shabaab stormed Mogadishu's main court complex, while in early September explosions at 'The Village', a restaurant near the Parliament building in Mogadishu, killed fifteen people. We understand that while the African Union-led military offensive in Somalia has been successful in targeting Al-Shabaab, the terrorist group continues to try and establish networks outside the country – both in Kenya and Tanzania.

24. Al-Shabaab uses a combination of conventional and asymmetric tactics – these include 'religious police' who employ violent punishments, the use of automatic weapons, suicide bombers and improvised explosive devices (IEDs). The group employs radio and online communication to publicise its message and further funding and recruitment drives. In addition to recruitment of foreign-born suicide bombers, there has also been growth of home-grown religious extremists through local recruitment and radicalisation efforts. Terrorism and violent extremism in the region is growing increasingly complex. Reports of

¹⁷ [CONTEST: The United Kingdom's Strategy for Countering Terrorism](#), July 2011, Cm 8123

¹⁸ [CONTEST Annual Report](#), March 2013, HM Government, Cm 8583

a steady stream of recruits travelling to Somalia from Western Kenya and Tanzania are concerning.

25. There are also concerns regarding the travel of British extremists to the region attempting to link up with Al Shabaab or other, related, extremist groups. The May 2013 murder of Fusilier Lee Rigby was carried out by an individual who had travelled to the region several times and was suspected of trying to join Al Shabaab. We visited Kenya as part of this inquiry to examine the links between the UK and Kenyan counter-terrorism personnel and to examine the capacity building work which was being carried out there.

Yemen

26. Al Qa'ida in the Arabian Peninsula (AQAP)'s main area of activity is within Yemen where it continues with a campaign of attacks against the Yemeni Government and supportive countries. It also continues to conduct operations against both internal and western diplomatic targets in Yemen. Kidnappings for ransom are commonplace, and tribal groups may attempt to sell hostages to AQAP.

27. In the past few years, AQAP are estimated to have made \$15-20 million through kidnap and ransom. A number of UK diplomats have been attacked. Despite a partially successful counter-terrorism campaign by the Government, AQAP continues to pose a significant threat both to the UK and to UK interests in the region.

28. AQAP propaganda, in the shape of Inspire – an online magazine - has continued to encourage acts of lone terrorism against the West. In April 2012, AQAP attempted a third attack on a civilian aircraft. AQAP are not coordinated by the AQ leadership and are seen by analysts as more technically astute than other AQ affiliated groups. They remain a key concern for UK national security.

29. At the start of the Arab Spring, AQAP improved infrastructure in some areas by connecting towns to electricity grid, putting teachers in school and playing a governmental role. However, their popularity waned following a level of brutality imposed their leaders. Despite this, intercepted communications between AQAP and AQM in Mali during the incursion there emphasised the importance of winning the hearts and mind of the people and gave advice to AQM leaders on organising rubbish collections and ensuring access to electricity.¹⁹

30. AQAP is responsible for the production of *Inspire*, the English language magazine which is frequently found in the possession of self-organised groups planning attacks in the UK. Its key messages include an emphasis on promoting attacks in the West, specifically lone actor style attacks. One of the alleged Boston bombers, Dzhokar Tsarnaev, stated that he and his brother Tamerlan had access to a copy of Inspire.

31. AQAP also has a track record of attempting to carry out sophisticated terrorist attacks in the West. AQAP has demonstrated the capability to produce IEDs aimed at defeating

¹⁹ [CONTEST: The United Kingdom's Strategy for Countering Terrorism](#), July 2011, Cm 8123

aviation security, and there is a continuing risk that a successful attack against an aeroplane could happen with little or no warning. These include the ‘underpants bomber’ and the ‘printer cartridge plot’.

North Africa

32. There has been a sharp increase in terrorist activity in the region conducted by Al Qa’ida in the Maghreb (AQM). AQM has its origins in Algeria, where the majority of its attacks to date have been directed. However, following the Arab Spring, AQM benefited from the deterioration in the security situation in the area – particularly in Libya - to increase its geographical reach, add to its arsenal of weapons and attract recruits to its cause. We remain very concerned that some analysts have described Libya as a large warehouse full of weapons with the doors wide open.

33. Smaller, affiliated organisations are also active. AQ-related groups are now stronger in Libya, Egypt and Tunisia than ever before and have greater freedom of movement. The attack on the gas installation at In Amenas in Algeria in January 2013 demonstrates the current capability and intent of terrorist groups in the region.

34. AQM has kidnapped and ransomed western hostages, securing significant funds for further operational activity; AQM has moved south into Mali and provides practical support to the Nigerian militant Islamist group – Boko Haram. The group has constantly exploited the freedom of movement afforded to it in the largely unpoliced desert areas of the Sahel.

35. The French-led intervention in Mali has removed this control and pushed AQM into more remote areas. The threat of attacks from AQM elements is however likely to endure in the region for the foreseeable future.

Nigeria

36. In Nigeria the Islamist extremist group Boko Haram has carried out a violent campaign, largely in the north of the country, often aimed at Christian communities and places of worship, as well as against Nigerian governmental and official targets. A second Nigerian jihadist organisation, Ansaru, is an offshoot of this group although it is worth noting the groups have separate ethnic identities – Boko Haram is mainly Kanuri whereas Ansaru is Hausa.

37. Boko Haram is conducting a large scale insurgency in Nigeria. There are almost daily attacks in Nigeria, causing large numbers of fatalities. Its splinter group, Ansaru, has a more international agenda and has kidnapped and murdered western (including British) hostages. Boko Haram and extended its reach into the volatile region of northern Nigeria.

38. Ansaru is widely associated with carrying out kidnap for ransom. There are many links between terrorist groups and drug trafficking in North-West Africa. In many cases, drugs will arrive on the West Coast and will be transported northwards by terrorist groups who take advantage of the porous borders in the region. There are also reports that smugglers

have been adopting a religious or jihadist rhetoric in order to justify their fight against the security services. A number of criminal organisations in Mali have adopted a separatist stance to 'legitimise' themselves.

3 Foreign Fighters

39. Citizens of western countries travelling abroad to take part in foreign conflicts has been an area of concern as far back as the 1590s, when Guy Fawkes returned from fighting with the Spanish in the Eighty Years' War. More recently, British citizens have participated in the Afghan and Bosnian wars. In his July 2013 report, David Anderson QC, the Independent Reviewer of Terrorism Legislation highlighted the threat posed by British nationals joining extremist organisations abroad.

The travel of UK nationals overseas to engage in jihad presents a number of potential threats to the UK, both while these fighters are overseas and on their return to the UK. The nature of these threats can differ, depending on the country in which they are fighting or the terrorist group which is hosting them, but there are a number of common themes. While overseas, these fighters can help terrorist groups develop their external attack capability by providing links with extremist networks in the UK and information about potential targets and the operating environment. In addition to English language skills which can help these groups with media outreach, some foreign fighters may also have other specialist skills (e.g. scientific, IT) that can help to strengthen the capability of these groups. The intelligence services have also seen foreign fighters attempt to direct operations against UK interests abroad.²⁰

40. In September 2013, US Congressman Peter King, former Chair of the House Homeland Security Committee, highlighted the extent of the current problem and the reason it raised concern amongst Western security agencies in his evidence to this inquiry.

As recent events have demonstrated, one of the most significant challenges facing Western states in the fight against al Qaeda is stemming the flow of foreign fighters who attempt to fight alongside al Qaeda's affiliates in Syria, Somalia, Yemen, and other parts of the world. ... The willingness to travel to terror safe havens and join violent Islamist extremist groups, even when these attempts are unsuccessful, should be considered an indicator that these individuals are capable of carrying out attacks in their home countries, as in the case of the Woolwich attackers, one of who reportedly attempted to join al Shabaab in 2010, and in the case of Tamerlan Tsarnaev. Some reports suggest that Tsarnaev's travel to Russia in early 2012 was an attempt to meet with violent extremists in the Caucasus. Both of these individuals would return home and subsequently murder innocent victims in the name of jihad.²¹

These concerns are corroborated by an analysis carried out by Dr Thomas Hegghammer which found that on average, one in nine foreign fighters returned home to take part in a

²⁰ https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2013/07/Report-on-the-Terrorism-Acts-in-2012-FINAL_WEB1.pdf, p29

²¹ [INQ0013](#)

domestic terror plot. He found that plots with foreign fighters are more likely to reach fruition and twice as likely to have a lethal impact. He noted that

a one-in-nine radicalisation rate would make foreign fighter experience one of the strongest predictors of individual involvement in domestic operations that we know. The predictive power of other biographic variables—whether nationality, economic status, or any other biographical trait studied so far—does not come close.²²

41. There is recent evidence of UK citizens having fought in both Somalia and Yemen as well as a number of nationals fighting in the Federally Administered Tribal Areas of Pakistan. David Anderson QC found that previous travel to the Federally Administered Tribal Areas for extremist training has been a feature of a number of terrorist plots in the UK, including four of the five plots disrupted in 2010-2012.²³ However, the numbers of foreigners fighting in each of these arenas has been dwarfed by those that are now travelling to take part in the Syrian civil war.

42. The uprising in Syria has involved many organisations with different political views and tactics; some are connected with and supported by Al Qa'ida. The conflict in Syria has drawn extremists on both sides; whilst instability across that region has provided new ungoverned spaces for terrorists to operate in. Trends in the conflict have reflected both diversification and profusion of armed groups and improvement in the size and capabilities of some actors relative to others. Many groups and units who claim to coordinate under various fronts and coalitions in fact appear to operate independently and reserve the right to change allegiances.²⁴ We took evidence from a broad range of people both inside and outside of the British Government on the threat from foreign fighters travelling to Syria.

43. Few, if any, Governments or Non-Governmental Organisations (NGOs) can accurately and independently verify the size, equipment, and current areas of operation of terrorist groups operating in Syria. While there is much good work going on both inside and outside of Government to understand the conflict dynamics and the implications for security in Syria, the region and more widely, we should be cautious in accepting hard numbers without appropriate evidence. A report by the Congressional Research Service suggests that:

open source analysis of armed groups operating in Syria relies largely on the self-reporting of individual groups and coalitions. Information is not evenly and regularly available for all groups. Verification is imperfect and is based on independent analysis of self-reported and third party-reported information. Social media outlets and news reports can help verify

²² Thomas Hegghammer 'Should I stay or should I go? Explaining Variation in Western Jihadists' Choice between Domestic and Foreign Fighting' *American Political Science Review* 107, February 2013

²³ https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2013/07/Report-on-the-Terrorism-Acts-in-2012-FINAL_WEB1.pdf, p29

²⁴ Armed Conflict in Syria: Overview and U.S. Response, Congressional Research Service, January 15, 2014

information, but most analysts consider it to be very difficult to confirm data points.²⁵

44. The sheer complexity of the security environment in Syria should not be underestimated. There are hundreds of active militia forces, ranging in size from a few dozen to thousands and organized around a wide variety of local communities, ethnic and religious identities, and political-religious ideologies. The size and relative strength of groups have varied and will continue to vary by location and time.²⁶

45. The International Centre for the Study of Radicalisation (ICSR) estimates that – from late 2011 to 10 December 2013 – between 3,300 and 11,000 individuals have gone to Syria to fight against the Assad government. Based on the credibility of various sources, and the think tank’s own judgement, they believe the “true” figure to be above 8,500. A number of examples have been brought to our attention including:

Two Dutch returnees from Syria who are understood to have been involved in youth criminal gangs prior to their travel were part of a five-person cell arrested last month for planning an armed robbery in the Netherlands. Genc Selimi, a 19-year-old Kosovar, was one of the six arrested for plotting a terrorist attack on a major European city after he returned from a stint in Syria. Prior to leaving for the conflict, he had been arrested in 2012 for gun possession... The one plot that has publicly emerged in any detail in the UK is the cell that had allegedly come back with plans to launch a Mumbai-style attack, though it is unclear that they had secured any weapons.²⁷

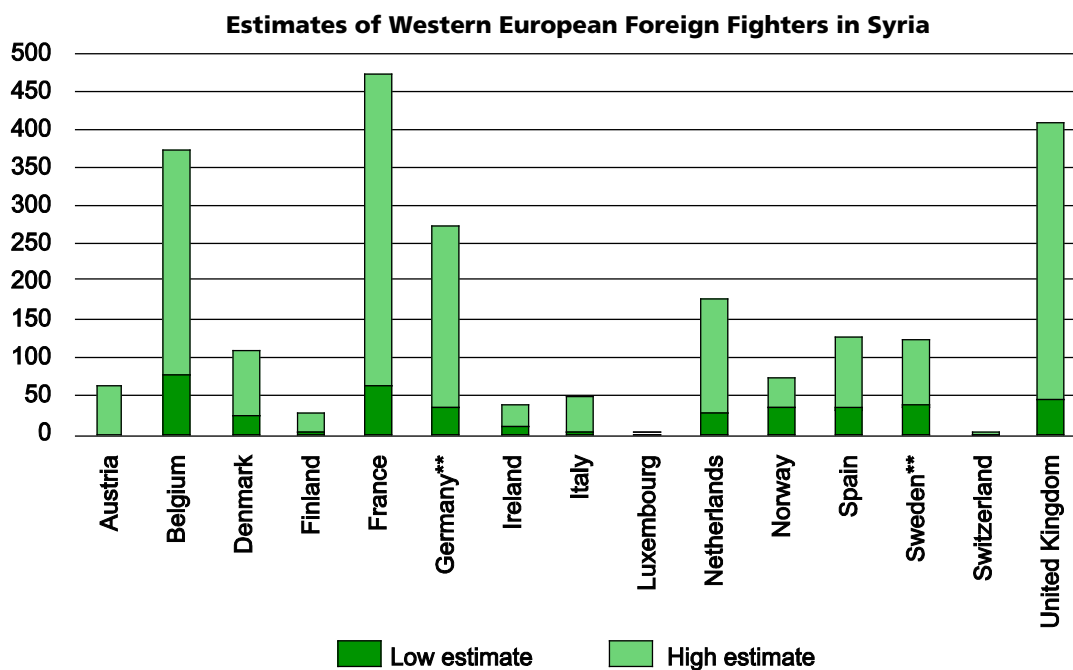
The ICSR estimate that the number of fighters from Western Europe ranges from 396 to 1,937. Western Europeans now represent up to 18 per cent of the foreign fighter population in Syria, with most recruits coming from France (63-412), Britain (43-366), Germany, (34-240), Belgium (76-296), and the Netherlands (29-152). Adjusting for population size, the most heavily affected countries are Belgium (up to 27 foreign fighters per million), Denmark (15), the Netherlands (9), Sweden (9), Norway (8), and Austria (7).²⁸

²⁵ Armed Conflict in Syria: Overview and U.S. Response, Congressional Research Service, January 15, 2014

²⁶ Armed Conflict in Syria: Overview and U.S. Response, Congressional Research Service, January 15, 2014

²⁷ https://www.rusi.org/analysis/commentary/ref:C533931D971E60/#.Uz6YYle8_KA

²⁸ <http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-europeans/>



UK nationals fighting in Syria

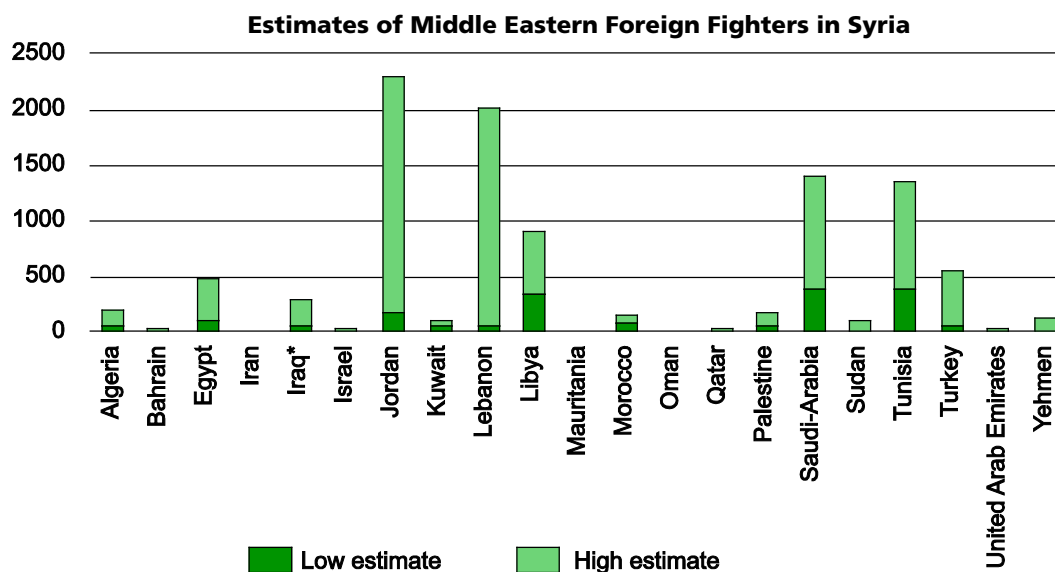
Numbers and the threat posed

46. Syria is an extremely attractive destination for foreign fighters. It is described as a 'perfect storm' in regards to foreign fighters as it is

- easily accessible (via either a three-day drive across Europe and through Turkey to the northern Syria border or a low-cost flight to Turkey and then a short drive to the border);
- has a sectarian element;
- has a viable narrative in regards to fighting against a perceived tyrant, widely criticised by Western leaders: and,
- is close to jihadist conflicts in Iraq and Lebanon which means that fighters are kept well-supplied.

47. It is not just European foreign fighters who are travelling to Syria to take part in the war. There are reports that foreign fighters from North Africa and the Middle East make up almost 70% of the up to 11,000 fighters which some estimate to be fighting on behalf of the opposition.²⁹

²⁹ <http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-europeans/>



There are also believed to be close to 10,000 foreigners fighting on behalf of the Government although the majority of these are thought to have been sent by the regimes in Iran and Lebanon.³⁰

48. When we questioned our witnesses about the motivation of those wishing to travel to Syria to fight the regime, humanitarian reasons were highlighted as a key motivator³¹ as was the Muslim concept of ‘ummah’ which was described as

the idea that all Muslims around the world are united through some kind of fraternity of the faithful and that Muslims from one part of the world owe duty, allegiance and loyalty to other Muslims, particularly in times of oppression or injustice.³²

It was also emphasised that this conflict was viewed as a fight against a tyrant and therefore the actions of those fighting him were morally correct. This is a feeling that could well be reinforced by the attempts made by both the UK and US Governments to undertake military action against the Assad regime. Other witnesses ascribed less noble motivations towards those fighting in Syria with the EU Counter-Terrorism coordinator describing them as narcissists who wanted their picture taken with a Kalashnikov.³³ Another witness, Dr Thomas Hegghammer, told us that as well as those who travelled for humanitarian reasons, some had travelled primarily with the objective of wanting to build a sharia state whereas others might have travelled for the kind of social dimension which we might more readily associate with a gap year student than a fighter.

³⁰ <http://carnegieendowment.org/syriaincrisis/?fa=53811>

³¹ Q434; 470

³² Q488

³³ Q516

[T]he search for camaraderie; the joy and excitement of adventure; the pleasure of doing something with your life; making a difference: all that kind of thing.³⁴

49. Dr Hegghammer noted there were now more European foreign fighters in Syria than had fought in all previous conflict zones combined.³⁵ This in itself raised concerns as even if the rate of returning foreign fighters engaging in domestic terrorism was much less than he had previously estimated, the large number made it likely that such a threat was likely.³⁶ The threat posed by the British citizens or residents fighting in Syria was set out by Charles Farr, the Director General of the Office for Security and Counter-Terrorism.

Some of those people may pose a threat when—if I take Syria as an example—they get to Syria and they may, from their base in Syria, plot attacks back in the UK. Others may pose a threat to us when they travel back from Syria themselves and they plan attacks here, either under the instruction of people outside this country or at their own initiative. Foreign fighters, so called, in this particular case British residents or nationals, pose a threat in a variety of different ways to us.³⁷

50. This was elaborated on by Gilles de Kerchove, who told us that the large number of jihadists travelling to Syria meant that the foreign fighters will now have had training in how to use a weapon or to build a bomb and also have contact points with other jihadists from around the world and even those travelling for humanitarian reasons were likely to be indoctrinated.³⁸ Shiraz Maher, senior fellow at the International Centre for the Study of Radicalisation also highlighted the danger of the indoctrination of those with humanitarian motivations.

People who may well go into Syria for all the right reasons, as you say, who are motivated by purely humanitarian intentions, are not just of course fighting 24 hours a day on the front lines. They spend a lot of time being indoctrinated and going to study groups and so on. What we find from the ones we are talking to is certainly that if they had not embraced what you might describe as a global jihadist ideology before arriving in the country, they are certainly beginning to embrace that while they are out there, so that encompasses a lot of ideas that I think do make them certainly more dangerous than they would have been.³⁹

51. However, not everyone agreed that foreign fighters were as much of a threat as might have been suggested. Richard Barrett told us that some may have returned horrified by what they saw rather than with the intention of carrying an attack out on their own country – he suggested that a qualitative assessment would have to be carried out on

³⁴ Q570

³⁵ Q554

³⁶ Q561

³⁷ Q187

³⁸ Q512

³⁹ Q484

returnees before such a judgement could be made about the threat that they posed.⁴⁰ It was also pointed out to us by several witnesses that the rate of attack upon return of foreign fighters varies across different conflicts. Foreign fighters who have trained in Afghanistan or Pakistan (where there are organisations with the stated objective of attacking the West) are much more likely to engage in planning an attack than those who travelled to Iraq where there was not the same degree of hostility against the West.⁴¹ At present, the motivation of those fighting in the Syrian civil war is sectarian—Sunni against Shia—with no group openly advocating action against the West, although it was also noted that this could change in the future.⁴²

52. Given the lack of perceived hostility against the West, many people have viewed those fighting in the Syrian Civil War as synonymous with those who travelled to take part in the Spanish Civil War. When we asked Dr Hegghammer why British citizens fighting in the Syrian civil war should be viewed differently to British citizens fighting in the Spanish Civil War he told us

The difference between the Islamist foreign fighter phenomenon today and a war like the Spanish Civil War is that today there are many cases of people moving on from this foreign fighter activity to international terrorism involving attacks against civilians in western cities. You did not have that at the time. There was not this sort of frequent and smooth transition from guerrilla warfare within the conflict at stake to more transnational terrorist operations. Whatever we think about the moral justification behind the initial involvement in the war, I think the reality that a substantial number of people move on to international terrorism from this activity should merit certain policy measures to prevent just that kind of violence.⁴³

The role of transnational terrorist operations in the war was also a point of concern for both Nigel Inkster of the International Institute for Strategic Studies (IISS) and Shiraz Maher of the ICSR. Nigel Inkster told us that

For me, the real worry about Syria is that it has the potential to become the crucible for a new generation of international jihadists, rather in the way as happened with those who took part in the anti-Soviet jihad in the 1980s, that they become a kind of band of brothers, united by shared experiences, shared outlooks, shared ideology, and that they then move on looking for new forms of jihad to undertake, one of which could well consist of attacks in countries such as the UK.⁴⁴

Shiraz Maher described the effect of war in Syria being that the gains made in the battle against international terrorist groups following the 11 September attacks were being

⁴⁰ Q692

⁴¹ Q473; 558

⁴² Q568

⁴³ Q560

⁴⁴ Q473

reversed. As a result of the Syrian battlefields acting as a permissive environment these organisations were able to repopulate their networks in ungoverned territory in a way that would have been unthinkable even two years prior.⁴⁵ Dr Hegghammer supported this concern, noting that there are now more jihadist groups across the Middle East than there were at the time of 9/11 and that we were seeing a new generation of militants being trained which would lead to the phenomenon of Islamic terrorism being extended by at least 15 to 20 years.⁴⁶

Response

53. The phenomenon of British foreign fighters in Syria has only recently begun to be perceived as major threat to the UK.⁴⁷ Indeed, it had not yet become significant enough to be included in the Home Office's submission to our call for evidence in October 2013 despite one of the terms of reference being 'the monitoring of those linked to terrorist activities, both at home and abroad'. By our first oral evidence session on 12 November, Charles Farr identified Syria as the most important area in terms of identifying and monitoring people who were travelling to fight in areas of jihad.⁴⁸ Both the Home Secretary and Assistant Commissioner Cressida Dick highlighted the difficulty of identifying those who were travelling to engage in jihad as opposed to those who were travelling for humanitarian reasons⁴⁹ (although, as noted above, even those with humanitarian motivations may eventually become radicalised).

54. In the first fortnight of 2014, fourteen people were arrested in relation to Syrian-linked activities. This was in comparison to the 24 people arrested over the course of the preceding year. A month later, on 16 February 2014, *The Sunday Times* reported that as many as 250 individuals who had fought in Syria had now returned to the UK. In an interview later that day, the Immigration and Security Minister did not dispute the figure, stating that the security concern linked with Syria was likely to be an issue for the foreseeable future.⁵⁰

55. In terms of preventing travel, the Immigration and Security Minister set out the range of legislative options that were available to the police and security service.

Depending on the intelligence or evidential case there are existing laws that can assist in the prevention of travel. However, it is important to highlight that where intelligence is limited we may be unable to meet the required thresholds for exercising powers available to us. Clearly where there is strong intelligence or evidence, powers of arrest under TACT 2000 can be used in order to investigate terrorist offences and establish whether individuals are

⁴⁵ Q481

⁴⁶ Q574

⁴⁷ <http://www.standard.co.uk/news/crime/exclusive-antiterrorism-chief-warns-of-british-girls-inspired-by-jihad-9080110.html>

⁴⁸ Q186

⁴⁹ Oral evidence taken on [16 December 2013](#), *The work of the Home Secretary*, HC 235-iii (2013-14), Q204; Q365

⁵⁰ <http://www.bbc.co.uk/news/uk-26214793>

engaged in the commission, preparation and instigation of acts of terrorism. In addition those seeking to travel may also reach the arrest threshold for criminal offences; such arrests may prevent or disrupt travel. In terms of specific legislation aimed at curbing travel the following are most relevant at this time; TPIMs, foreign travel restriction orders, the Royal Prerogative, deportation, exclusion and deprivation. TPIMs require a strong national security case. Foreign travel restriction orders are available in relation to convicted terrorists who have received a sentence of imprisonment of more than 12 months.⁵¹

However, he also noted that in terms of people returning from Syria, each case had to be considered individually as not everyone who returned will have been engaged with a terrorist organisation. He emphasised that in order for a case to be prosecuted, both sufficient evidence to convict and a public interest in the prosecution would be required.⁵² The necessity of treating cases individually was also a point made by Gilles de Kerchove who told us that the EU was designing

mechanisms to assess—and I think this will be necessary for each and every returnee—whether this person poses a threat, and whether they need psychological support, because many have been confronted with a really ugly war, or social support to help them get back to normal life, to find a job or to retrain for that.⁵³

56. Gilles de Kerchove also set out the wider EU response to the concern which consisted of:

- Collating information on those travelling to fight in an attempt to understand whether there were networks involved, who was travelling, what routes they were taking, how they were being funded and what their motivations were.
- Trying to stem the flow of foreign fighters.
- Ensuring that there is an adequate legal framework to investigate and prosecute those who have joined the most radical groups.
- Maximising existing processes such as the Schengen Information System and exploring new processes such as passenger name records.
- Engaging collectively with transit countries.

Using these objectives as a starting point, he told us that a ‘concrete project’ was being put together.⁵⁴

⁵¹ [CTE0032](#)

⁵² Q876

⁵³ Q512

⁵⁴ Q508-9

57. A number of witnesses had other suggestions for dealing with the concern raised by the issue of foreign fighters. The Commissioner of the Metropolitan Police noted that in a number of cases the parents of those who had travelled to fight were unsure of where they could access advice or information to allow them to stop it. He also suggested that more work could be done with mosque leaders.⁵⁵ In his evidence before us, Gilles de Kerchove suggested that testimony of the returnees could be used to highlight the infighting between the groups and the terrible experiences of those who have fought in the war.⁵⁶ The Immigration and Security Minister made reference to the importance of emphasising the fact that the Free Syrian Army (and indeed the Syrian people) have said that they want humanitarian assistance rather than foreign fighters.⁵⁷ On a practical note, Dr Hegghammer suggested that external partners could work with Turkish authorities to increase their capacity at the border, a project which may be as simple as building a fence.⁵⁸

58. The number of UK citizens and Westerners travelling to fight in foreign conflicts has reached alarming levels unlike anything seen in recent years. We require an immediate response targeted at dissuading and preventing those who wish to go to fight from going; helping countries who are key to intercepting those who are entering Syria, and ensuring those who return do not present a danger to the UK.

59. We are alarmed by the relative ease by which foreign fighters appear to be able to cross the border into Syria. It is the responsibility of the international community to assist transit countries, and the UK must offer practical support to those countries in securing their borders. We have been impressed by the efforts made to prevent football hooliganism in foreign countries by sending “spotters” to help pick out those at risk of committing criminal acts and believe similar practical help would be beneficial in the fight against terrorism. We recommend that the Government maintain representation from the UK Counter Terrorism command to help the Turkish authorities identify those who are at risk of crossing the border into Syria intending to fight and make available any relevant intelligence to the Turkish authorities that may be beneficial. The Government should also work with transit countries such as Turkey, Lebanon and Jordan to better establish who is likely to be travelling for genuine humanitarian reasons.

60. The Government needs a clear strategy for dealing with foreign fighters on their return, which may include help to come to terms with the violence they have witnessed and participated in, as well as counter-radicalisation interventions. We are concerned that their experiences may well make them vulnerable to Post-Traumatic Stress Disorder thereby increasing their vulnerability to radicalisation. We recommend that the Government implement a programme, similar to Channel, for everyone returning to Britain where there is evidence that they have fought in Syria. The engagement in this strategy should be linked to any legal penalties imposed on their return. In

⁵⁵ Q368

⁵⁶ Q518

⁵⁷ Q873

⁵⁸ Q560

developing the strategy the Government must work with mental health practitioners and academia to ensure that the programme best integrates those returning from conflict zones such as Syria.

4 Capacity Building

61. In her foreword to the July 2011 Contest Strategy, the Home Secretary noted that

Most of the terrorist plots against this country continue to have very significant overseas connections. We must continue to work closely with other countries and multilateral organisations to tackle the threats we face at their source.⁵⁹

UK capacity building

62. While the police, security and intelligence agencies work tirelessly to protect British citizens we believe that building stability overseas is also crucial to the success of the Government's counter-terrorism strategy. As the CONTEST strategy makes clear:

Terrorist groups gravitate to and emerge from fragile and failed states...the absence of the effective rule of law not only encourages terrorism, but makes counter-terrorism operations significantly harder. In some cases, terrorists who we know and who are planning operations in this country have been able to do so without hindrance for many years. Building the capacity of failed and fragile states is therefore vital to our national security.⁶⁰

63. This work is delivered through political and diplomatic engagement, and through specific counter-terrorism projects in priority countries: Afghanistan, Pakistan, Yemen, Somalia and Nigeria. Syria, in recent years, has also become a priority.

64. The Government also uses its international development programme to gain maximum benefit in stabilising areas which in turn restricts the growth of extremism. Governments are not the sole providers of capacity building projects – NGOs play an important role in countering terrorism. The UN provided an example of their work to develop effective and proportionate strategies to prevent terrorism financing through NGOs. The project, launched in London in 2011 with the support of the Government of the United Kingdom, was supported by Canada, Australia, New Zealand, Sweden, Switzerland, the United Kingdom and the United States and brought together more than 60 countries and 80 NGOs to examine the risks. Experts from the United Kingdom, including the Charity Commission of England and Wales, played a leading role in the organisation and implementation of this initiative, which the UN maintain provided invaluable guidance and policy advice.⁶¹

65. In their written evidence to us the Home Office said that the Government had introduced a more strategic approach to developing the capacity of international partners to investigate and prosecute terrorists by building justice and human rights partnerships.

⁵⁹ [CONTEST: The United Kingdom's Strategy for Countering Terrorism](#), July 2011, Cm 8123

⁶⁰ Ibid.

⁶¹ [CTE0035](#)

The work was being carried out with countries where there is both a threat to UK security and weaknesses in the law enforcement, human rights and criminal justice architecture.

66. Specific counter-terrorist projects are supported by a £30m FCO CT Programme. These projects are delivered by and with a range of Departments and agencies, including the Ministry of Defence, Department for Transport, Crown Prosecution Service and the Metropolitan Police Service.⁶² These projects aim to:

- Build the CT capacity of overseas security services to improve compliance with the law and human rights and to make them more effective;
- Improve the ability of local investigators to build cases based on evidence rather than confession. The police CT network plays a critical role in this regard: support is delivered through the network of Counter-Terrorism and Extremism Liaison Officers (CTELOs) posted overseas who work with organisations in their host countries and regions;
- Ensure prosecutors and judges are capable of processing terrorism cases through the court systems, effectively, fairly and in line with the rule of law;
- Improve and where appropriate monitor conditions in detention facilities so that convicted terrorists can be held securely and their treatment meets with international standards.⁶³

67. The Government emphasised that capacity building work overseas were carried out within a framework built on accountability and respect for human rights and that

It is vital that our CT work supports justice and the rule of law as well as meeting our security objectives. Although work on the partnerships is in its early stages, we have already delivered progress in a range of areas.⁶⁴

68. The police provide an important role in capacity building overseas. In her written evidence to us, Cressida Dick, the Assistant Commissioner of the Metropolitan Police explained how the police counter-terrorism network played a critical role in supporting countries overseas to investigate and prosecute terrorists who may threaten the UK and our interests. She told us that the Metropolitan Police's Counter Terrorism and Extremism Liaison Officers (CTELOs) are strategically located around the world and work closely with police counterparts in their host countries and regions. They have a wide range of roles and responsibilities including:

- providing assistance in efficiently progressing CT-related enquiries emanating from, and directed into, the UK (this includes working within Europol);

⁶² [CONTEST: The United Kingdom's Strategy for Countering Terrorism](#), July 2011, Cm 8123

⁶³ [INQ0007](#)

⁶⁴ Ibid.

- acting as the forward deployment for UK CT police in respect of terrorist incidents where UK nationals or interests are involved to assist the host country in conducting their investigation;
- mentoring and building effective and human-rights-compliant CT capability within foreign police agencies in support of the FCO Justice and Human Rights Partnership (JHRP) Programme.⁶⁵

69. The network of Counter Terrorism and Extremism Liaison Officers (CTELOs) has recently increased its geographical coverage in response to the expanding and more diversified threat overseas. According to the Metropolitan Police, it is now more effectively placed to deliver the policing component of the Government's upstream counter-terrorism operations so that it is possible to tackle the threat at its source and better establish where there is a direct threat to the UK or its interests.⁶⁶

70. The Metropolitan Police highlighted the relationship between CTELOs and NCA colleagues where the two organisations have common posts. Furthermore the Metropolitan Police described how the CT Network is

Actively engaged with the NCA in examining potential areas of coordination and collaboration and some of these overlaps may well be identified in capacity building activity, specifically where we are interacting with the same organizations overseas.⁶⁷

Counter Terrorism and Extremism Liaison Officers (CTELOs) Network in action

71. The Metropolitan Police gave two recent examples of their CTELOs supporting national law enforcement in investigating terrorist incidents abroad.

Algeria

The Counter Terrorist Command in the MPS led the UK response following the terrorist attack on a gas plant processing facility in In Amenas, Algeria in January. This is an ongoing operation, with extensive support being provided by us to the Foreign Office and the HM Coroner and there continues to be significant family liaison work and engagement with a range of international partners. The deployed team were able to manage the recovery, identification and repatriation of any UK deceased, conduct interviews and evidence gathering from survivors.

Led by the Forensic Management Team, the UK set a strategy for the international identification and repatriation of deceased and their remains, managing all aspects of the mortuary process. With the assistance of

⁶⁵ [INQ0003](#)

⁶⁶ [CTE0031](#)

⁶⁷ Ibid

international partners from Norway and Japan, the team examined a high number of bodies and body parts, conducting all DNA work here in the UK. This process enabled the repatriation of UK and other international victims and all associated body parts to UK Coronial standards. The mortuary process allowed the UK team to support local authorities through the Disaster Victim Identification (DVI) process with the sharing of best practice and the training of local staff. In addition, officers were able to visit the scene and gain an insight into the events of this attack in order to support the coroner.

Kenya

Following the attack on the Westgate shopping centre, the CTELO had been heavily engaged with the Kenyan police response. The decision was taken to deploy a Counter Terrorism Command team of investigators in order to assist the Kenyan police investigation and mentor local resources in the effective examination of a terrorism scene, along with all the issues associated with body recovery to an internationally approved standard.

The CTELO has an extremely good relationship with the Anti-Terrorist Police Unit and this allowed the investigation team access to relevant material and allowed for the team to assist local staff with scene examination and body recovery. Previous training has been delivered to the Kenyan police by the Counter Terrorism Command but this was their first major scene. Working alongside the Kenyan police, with the assistance of FBI colleagues, the team were able to mentor them through all aspects of scene management, scene investigation and body recovery. This included mortuary management in mass fatality terrorist attacks.⁶⁸

Funding for capacity building

72. Given evidence presented as to the increasingly diverse and dispersed nature of the threat and its impact on the UK and our interests overseas, capacity building is a vital tool in influencing and shaping the international response to terrorism. In his evidence to us Richard Barrett emphasised:

Capacity building in some areas I think is very important. I think it is very important to encourage people to act by the rule of law and so on, of course, building capacity overseas from the point of apprehension to the point of verdict, if you like, so that the treatment is correct. A terrorist, after all, sees the state as his enemy, and therefore if the enemy is responding to the terrorist in a way that they would respond to any citizen, that slightly undermines the narrative. We know, of course, of examples of people who have been rather surprised by their treatment by Government in a positive way, which has tended to de-radicalise them. Similarly, of course, if you treat

⁶⁸ [INQ0003](#)

people badly, they become more radicalised. I think capacity building just in the sense of awareness and understanding is enormously important.⁶⁹

73. One of the more troubling aspects of capacity building is knowing how effective they are. Richard Barrett argued “that absolutely every effort should be made to measure the impact, because after all you are talking about taxpayers’ pounds, and this should be spent responsibly.”⁷⁰ However, he also noted that capacity building is not a straightforward process and neither is measuring the impact. He told us:

It is very difficult to say whether something was effective or not, and I think the more you can get your funds into the hands of local partners who are working on the ground in the community and measure what happens as a result of that work, clearly the better. That means you are not spending £30 million, but you are spending maybe £30,000, because there are community groups who cannot absorb huge amounts of money. Then there are all sorts of knock-on effects about administrative costs and everything else.”⁷¹

74. On a recent trip to India, the Prime Minister indicated that he was willing to see the UK’s spending on international aid be used to

make sure that the funds we have at our disposal are used to provide basic levels of stability and security in deeply broken and fragile states ... We have our moral responsibilities for tackling poverty in the world. We also have national security responsibilities for mending conflict states and helping with development around the world and we should see DfID in that context.⁷²

It was suggested that funding could be diverted to Ministry of Defence projects as a result.

75. The increasingly diverse and dispersed nature of the threat makes capacity building a front-line defence against a changing threat landscape. We note that the Foreign and Commonwealth Office’s budget is limited by available resources but given the importance of capacity building to the Government’s counter-terrorism efforts we look to the OSCT and the FCO to reassure us that the Counter-Terrorism Fund will be maintained at current levels in this and the next financial year. In the light of the announcement that the Prime Minister is considering using some of the UK’s aid budget on peace keeping and other defence-related projects, we recommend that within the definitions of Overseas Development Aid, money could be used to increase resource for capacity building abroad.

76. Jean-Paul Laborde, Executive Director UN Counter-Terrorism Committee Executive Directorate (CTED) highlighted that such work is also done through the UN. CTED conducts work in collaboration with its partners within and outside the UN system. It works with them to develop the appropriate tools and methodologies to measure the

⁶⁹ Q700

⁷⁰ Q691-722

⁷¹ Q703

⁷² <http://www.bbc.co.uk/news/uk-politics-21528464>

impact of the work that CTED and its partners are undertaking in order to ensure that counter-terrorism measures are effectively deployed.⁷³ The nature of such capacity building support will vary depending on the context but will include: training and mentoring local CT police units in evidence based investigations, interviewing and forensic techniques, where an emphasis is placed upon the importance of human rights compliant processes and safeguards to deliver reliable and viable prosecutions.⁷⁴

77. We asked the Government for details of its capacity building projects. The response we received was that the UK Government

Do not publicly disclose the location, number or purpose of all our counter terrorist capacity building projects overseas because they very often have a counter terrorist operational purpose.⁷⁵

The only programme it was willing to provide specific details upon was the CAPRI (Counter-Terrorism Associated Prosecutorial Reform Initiative) project in Pakistan which has the overall objective of supporting national capacity in the fight against terrorism and organised crime networks. However, we understand that despite the Government informing us that CAPRI is part of the FCO's Justice and Human Rights Partnership Programme, it is in fact funded by the European Commission. The project is indeed being carried out by the UK but is funded entirely from European budgets.

78. We accept that some of the UK's capacity building programmes are sensitive but we believe that greater transparency about how much the Government spends on capacity building overseas and who funds these programmes (i.e. fully by UK Government or jointly between UK and EU) is crucial for accountability.

The European Union

79. In his evidence to the committee, Gilles de Kerchove, the EU's Counter-Terrorism Coordinator, painted a worrying picture. Mr de Kerchove said that national budgets devoted to counter-terrorism are declining across the EU but that

the threat that we face is becoming more diverse, more diffuse, and more unpredictable.⁷⁶

Mr de Kerchove was particularly concerned about Africa where he suggested the threat was growing and becoming a major obstacle to development.

80. In his evidence to us, Mr Laborde of CTED said that

All States have had to make cut-backs in their own expenditure. However, CTED, like its partners, works hard to "do more with less" by developing

⁷³ [CTE0035](#)

⁷⁴ [CTE0031](#)

⁷⁵ [INQ0010](#)

⁷⁶ [CTE0034](#)

capacity building projects that are designed in very practical ways to maximize the use of resources. These include the implementation of regional approaches, in which capacity-building addresses the needs of a number of countries at once.⁷⁷

In order to respond to the changing threat picture governments will have to increasingly identify pools of funding and coordinate their action not least if national budgets are in decline. Furthermore there is anecdotal evidence that there was substantial duplication of effort and therefore and EU member states could be better joined up in their actions.

81. In many cases focusing solely on Counter-Terrorism will not be enough and should be part of a broader and more comprehensive security and development strategy. The EU has set up a number of programmes where it works to build capacity and ensure that responses to terrorist activity are in line with the rule of law. A full list of these programmes can be found in the written evidence provided by the EU's Counter-Terrorism Coordinator.⁷⁸ For reference, two of the programmes are described below:

- **CT Sahel:** 8,696,750€, 36 months (10/2011 – 10/2014), Mali, Mauritania and Niger, with possible extensions to Burkina Faso and Senegal. The aim of the project is to strengthen the capacities of law enforcement (police, gendarmerie and garde nationale) and judiciary in the Sahel to fight against terrorism and organised crime with the purpose to support the progressive development of regional and international cooperation against these threats.
- **CT Pakistan (CAPRI):** 1,800,000€, 36 months (01/2013 – 12/2015). The overall objective is to support national capacity in the fight against terrorism and organised crime networks. The purpose of the action is to improve the ability of Punjabi agencies to successfully investigate, prosecute, convict and detain terrorists. The project is being carried out by the UK.⁷⁹

International capacity building efforts

82. In his evidence to us Jean-Paul Laborde, Executive Director, UN Counter-Terrorism Committee Executive Directorate spoke of capacity building as a key plank of international cooperation and its importance to achieving national and international security.

The transfer of know-how, through capacity-building programmes, and technical assistance and training on identified areas of need, from high capacity countries to lower capacity countries, and through the activities of multilateral agencies, such as those of the United Nations, not only builds capacity where required, but also identifies best practices, and creates

⁷⁷ [CTE0035](#)

⁷⁸ [CTE0034](#)

⁷⁹ [CTE0034](#)

regional and international networks of specialists and fosters the habits of cooperation at the working level.⁸⁰

83. Mr Laborde echoed previous witness by highlighting the need for capacity building projects to be coordinated. There is no doubt that CTED plays an important role in regular convening donors and providers for briefings on capacity building needs in particular States or regions but proper coordination of activity is limited on the international stage and does seem to translate to action on the ground. Given national budgets are in decline, the necessity to act in unison and collaborate between states is more important than ever.

84. One way that states can act in unison is by supplying and utilising the information databases held by multi-lateral law enforcement organisations such as Interpol. One of the key databases collated by Interpol is the Stolen and Lost Travel Documents database. Whilst its use by the UK authorities is extensive—it was checked 140 million times last year with 16,000 travel documents identified as not being valid—amongst other countries, including European allies, its use is not as widespread. The table below shows the number of time it was checked last year by the most frequent users of the database.

Country	Number of searches	% of searches of database
UNITED STATES	238 389 094	29%
UNITED KINGDOM	140 184 265	18%
UNITED ARAB EMIRATES	104 076 060	13%
JAPAN	34 712 623	4%
CROATIA	34 131 673	4%
SINGAPORE	29 271 045	4%
BOSNIA AND HERZEGOVINA	18 672 539	2%
SERBIA	18 646 856	2%
SWITZERLAND	17 259 652	3%
BULGARIA	15 408 808	1%
CARICOM	15 094 026	2%
QATAR	12 000 981	2%
FRANCE	11 587 347	1%
EL SALVADOR	10 472 105	1%
ALBANIA	10 214 658	1%
MONTENEGRO	8 465 312	1%
OMAN	7 811 925	1%
ROMANIA	6 574 033	1%
CÔTE D'IVOIRE	6 473 294	>1%
PERU	6 179 778	1%
Other		8%

Source: Interpol

85. Today the terrorist threat is a global one and an attack anywhere in the World has the capability to harm UK citizens and UK interests. **We recommend that the Government raise the issue of Interpol databases as part of discussions around counter-terrorism at**

⁸⁰ [CTE0035](#)

the next EU Justice and Home Affairs Council and encourage others to utilise the tools at their disposal.

86. Interpol also carry out capacity building projects as well as supporting national law enforcement agencies in criminal cases which involve an international aspect. At present Interpol can deploy their incident response teams to a suspected terrorist incident within 24 hours. However, there are suggestions that INTERPOL support to agencies would be greatly increased should a proposal go ahead to develop an International Mobile Platform to assist in the investigation of suspected terrorist incidents. Such a platform would facilitate the records of individuals to be cross-checked across all of the national security databases of INTERPOL member countries as well as share or compare information and intelligence with national security units around the globe. It is envisioned that the platform would only be used in large-scale incidents where multiple nationalities are involved. The platform would require both resources and support from member countries as it will comprise highly trained and equipped teams that can support first responders in the affected country and assist that country conduct sensitive and complex transnational investigations. In order to be effective, it would have to be based in a permanent command control centre with teams able to deploy to the affected region.

87. Interpol is an international policing organisation with a proven record of success and should be widely supported. We recommend that the Government take the lead in working with Interpol and the UK's international partners to create an international operational platform supporting terrorist investigations. The UK should use its pivotal position in the G7 to ensure that this change is achieved. Whilst UK policing may lack sufficient resources to supply a significant number of staff to such a platform, we also recommend the Government consider offering to host the permanent base of the platform.

5 The UK's response to the terrorist threat

88. Terrorist plots and acts of terrorism are investigated by the police and the security and intelligence agencies. Government funding for counter-terrorism policing was £573 million in 2012-13. The security and intelligence agencies receive a budget of £2.1 billion. In 2011-12 MI5 allocated 72% of its resources to international counter-terrorism whereas MI6 and GCHQ allocated roughly a third each of their budgets to international counter-terrorism.⁸¹

89. The current UK threat level is substantial, having been downgraded from severe in July 2011. That means that an attack is a strong possibility. Since its inception in 2006, the threat level was either severe or critical up until July 2009 when it was listed as substantial. It was upgraded to severe in January 2010 before the July 2011 downgrade.⁸² This latter period has coincided with a liberalisation in terrorism laws following a review of Counter-Terrorism legislation carried out by the coalition Government. David Anderson QC welcomed the changes since 2010 in his written evidence to this inquiry.

Over the past few years, the anti-terrorism laws and their operation have been cautiously liberalised in areas ranging from stop and search and retention of biometric data to detention periods and control orders. In successive reports I have found the liberalisation – but also the caution – to be justified. I have pointed to gaps in protection, though it is often difficult to do so publicly. I have also made recommendations for further change. A few such recommendations (for example the possibility of bail for those arrested under the Terrorism Act 2000) have been rejected, at least for now. Others have been partially adopted or are currently in train: in particular, the review and amendment of Schedule 7 port powers and the revocation of outdated and potentially unlawful proscription orders.⁸³

90. Acts of terrorism are not generally charged under terrorist legislation – the perpetrators of the attack of Fusilier Lee Rigby and the man responsible for the death of Mohammed Saleem were both charged with (and convicted of) murder rather than a terrorist offence although both cases were investigated as terrorism. Instead terrorism legislation is intended to prevent both radicalisation (which can lead to acts of terrorism) and acts of terrorism themselves. The purpose of terrorism legislation is to

- Ensure that what are known as ‘prior acts’ (such as preparation, training, dissemination, possession for terrorist purposes and even encouragement) are criminalised, and

⁸¹ Independent Reviewer of Terrorism Legislation, *The Terrorism Acts in 2012*, July 2013, p46

⁸² *Ibid.*, p34

⁸³ [CTE0017](#)

- To criminalise individuals who may have known about the intentions of terrorists (non-disclosure to the police or being present during training).⁸⁴

There is also a degree of associated legislation which can be used to disrupt terrorist action. In this inquiry we have mainly focused on the effectiveness of the UK counter-terrorism policy and legislation which can be used to disrupt the activities of foreign fighters. In this chapter we also discuss the possible transfer of counter-terrorism policing from the Metropolitan Police to the National Crime Agency.

Countering terrorist activity

Schedule 7

91. Schedule 7 of the Terrorism Act 2000 empowers police, immigration officers and designated customs officers to stop and question travellers at ports, airports, or hover ports in order to ascertain whether they are a terrorist, which for this purpose means “a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism”.⁸⁵ There is no requirement that the officer have reasonable grounds for suspicion that the person is involved in terrorism before the powers can be exercised. The person being questioned can be

- detained for questioning for up to 6 hours;
- required to answer questions and provide information and documents on pain of criminal penalty; and,
- searched, as can any property they have on them (including personal electronic devices such as laptop computers, tablets and mobile phones). That property can be seized and retained for examination.

Failure to comply with any duties or requests is a criminal offence, punishable by imprisonment for up to 3 months. The powers are used on a considerable scale (approximately 60,000 stops a year⁸⁶) and, according to the EHRC, the ethnic breakdown of those subjected to the power suggests a statistical disproportionality in terms of race.⁸⁷

92. There has been further controversy following the use of schedule 7 to detain David Miranda at Heathrow Airport in August 2013. Mr Miranda is the partner of Guardian journalist Glenn Greenwald (the author of the Guardian newspaper stories based on classified intelligence material leaked by Edward Snowden). He was in transit at Heathrow airport on his way from Berlin to Rio de Janeiro when he was detained and questioned for 9 hours. His electronic devices were seized and detained by the police as the devices were

⁸⁴ Independent Reviewer of Terrorism Legislation, *The Terrorism Acts in 2012*, July 2013, p121

⁸⁵ <http://www.legislation.gov.uk/ukpga/2000/11/section/40>

⁸⁶ Q112

⁸⁷ http://www.equalityhumanrights.com/uploaded_files/Consultation_responses/ehrc_-_review_of_the_operation_of_schedule_7_consultation_response_6_dec_2012.pdf

understood to contain material provided by Mr Snowden to the Guardian, including some 58,000 classified UK intelligence documents.⁸⁸ Following his detention, Mr Miranda brought a judicial review of the decision to detain him under schedule 7 which was dismissed in February 2014 (although he has publicly stated his intention to appeal against the decision.).⁸⁹ The Miranda judicial review is one of a number of legal challenges to Schedule 7 which have been brought and a number of changes to the process have been incorporated in the Anti-Social Behaviour, Crime and Policing Act 2014. The amendments include a statutory review of the detention at regular intervals, the introduction of a code of practice and safeguards on the retention of electronic data.

93. The Independent Reviewer of Terrorism Legislation (who reports annually on the use of schedule 7) had previously been intending to report on the use of schedule 7 to detain David Miranda at Heathrow Airport in August 2013. Following the outcome of legal proceedings brought by Mr Miranda against the decision to detain him under schedule 7 and the Royal Assent of the Anti-social Behaviour, Crime and Policing Act in March 2014, Mr Anderson has decided to not to issue such a report. Instead he will include any recommendations in his annual report which will likely be published in July 2014.⁹⁰ Mr Anderson raised a number of issues in evidence to us which were not dealt with in the Act, specifically:

- An introduction of a test of grounds of suspicion when ancillary powers are used (such as detention or making copies of material found on the person);
- The use of answers given under compulsion in a criminal court; and
- The treatment of legally privileged material, excluded material and special procedure material.⁹¹

We believe that all of these issues should be subject to further review and we await Mr Anderson's report.

Withdrawal of passports

94. In April 2013, the Home Secretary made a Written Ministerial Statement to the House which announced a change in the rules allowing the Home Secretary to prove that it was 'undesirable' for such a person to have a British passport as opposed to 'demonstrably undesirable'. The statement contained the commitment to use the power 'sparingly'.⁹² It also included the following reference to its purposes for countering terrorism.

For example, passport facilities may be refused to or withdrawn from British nationals who may seek to harm the UK or its allies by travelling on a British

⁸⁸ <https://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/miranda-v-sofshd.pdf>

⁸⁹ <http://www.bbc.co.uk/news/uk-26256544>

⁹⁰ <https://terrorismlegislationreviewer.independent.gov.uk/miranda-and-the-definition-of-terrorism/>

⁹¹ Q122; [CTE0018](#)

⁹² HC Deb, 25 Apr 2013: [Col 68WS](#)

passport to, for example, engage in terrorism-related activity or other serious or organised criminal activity. This may include individuals who seek to engage in fighting, extremist activity or terrorist training outside the United Kingdom, for example, and then return to the UK with enhanced capabilities that they then use to conduct an attack on UK soil. The need to disrupt people who travel for these purposes has become increasingly apparent with developments in various parts of the world.⁹³

95. In the past the use of the power has been thought to have been rare. It was reported to have been used only 16 times between 1947 and 1976. It was also reported to have been used in 2005 following the return from Guantanamo Bay of Martin Mubanga, Feroz Abbasi, Richard Belmar and Moazzam Begg.⁹⁴ However, because it is a royal prerogative there is no requirement for the Home Office to report its use to Parliament. When he gave evidence to us on the 18 March 2014, the Immigration and Security Minister informed the Committee that the Royal Prerogative had been used 14 times since April 2013. He told us that none of those who have had their passport removed have challenged the decision by way of judicial review.⁹⁵ He also repeated the commitment to the Royal Prerogative being used proportionately, in the public interest and sparingly.⁹⁶

96. The withdrawal of passports is a vital tool in preventing UK citizens from travelling to foreign conflicts. We understand the need to use the prerogative power to withdraw or withhold a citizen's passport. Given that the estimates of foreign fighters are in the low hundreds, we are surprised that it has only been used 14 times since April 2013 and recommend that, in all appropriate circumstances where there is evidence, the power is utilised as an exceptional preventative and temporary measure. However, we note that its use is not subject to any scrutiny external to the executive. We recommend that the Home Secretary report quarterly on its use to the House as is currently done with TPIMs and allow the Independent Reviewer of Terrorism Legislation to review the exercise of the Royal Prerogative as part of his annual review.

Citizenship stripping

97. Another method to address the issue of British citizens (with dual citizenship) fighting in Syria is removing their British citizenship. Using powers in the British Nationality Act, the Home Secretary can terminate the British citizenship of dual-nationality individuals if she believes their presence in the UK is 'not conducive to the public good', or if they have obtained their citizenship through fraud. Deprivation of citizenship orders can be made with no judicial approval in advance, and take immediate effect – the only route for people to argue their case is through legal appeals. When we took evidence from the Immigration and Security Minister he informed us that deprivation of citizenship orders had been made

⁹³ HC Deb, 25 Apr 2013: [Col 68WS](#)

⁹⁴ <http://www.bbc.co.uk/news/uk-22297436>

⁹⁵ Q854-5

⁹⁶ Q867

in 41 cases since 2010 – 24 on non-conducive grounds and 17 on fraud grounds. He refused to specify how many cases were linked to Syria.⁹⁷

98. At present, only dual nationals can have their British citizenship withdrawn. However, there is currently legislation being debated which would allow a naturalised mono-British national to have their citizenship removed (which would make them stateless) if it

is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory.⁹⁸

In such cases, the Government maintains, the individual can attempt to (re)acquire an alternative nationality.

99. In a Westminster Hall debate on the subject, the Immigration and Security Minister noted that the power would be used ‘sparingly’ but emphasised that deprivation of citizenship would be imposed even if the individual could not obtain alternative nationality. If the individual were in the UK and unable to obtain alternative nationality, they could apply to remain in the UK as a stateless person. He noted that

The UK would continue to comply with the provisions of the 1961 UN convention on the reduction of statelessness, regarding the rights of stateless persons. Where appropriate, we could regularise a person’s position in the UK by granting limited leave—possibly with conditions relating to access to public funds and their right to work and study.⁹⁹

We were surprised when the Minister informed us that the policy approach had been based on a single case (the Al-Jedda case) and that the focus had been on individuals who would be able to apply for alternative nationality. Mr Al-Jedda is not currently in the UK, hence the Minister’s apparent lack of concern, but the legislation would seem to have no discernible outcome were it used against someone whilst they were in the UK.

100. On Monday 7 April the House of Lords voted to amend the Immigration Bill to further investigate the efficacy of the policy. The House voted to replace the clause with the following text.

(1) A committee of members of both Houses of Parliament shall be established to consider and report on whether section 40 of the British Nationality Act 1981 (deprivation of citizenship) should be amended to enable the Secretary of State to deprive a person of their citizenship status if—

(a) the citizenship status results from the person’s naturalisation, and

⁹⁷ Q870-1

⁹⁸ HC Deb, 30 Jan 2014: [Col 1026](#)

⁹⁹ HC Deb, 11 Feb 2014: [Col 257WH](#)

(b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory,

even if to do so would have the effect of making a person stateless.

(2) The committee shall consist of six members of the House of Lords nominated by the Chairman of Committees, and six members of the House of Commons nominated by the Speaker of the House of Commons, to be appointed on the passing of this Act to serve for the duration of the present Parliament.

(3) Any casual vacancy occurring by reason of the death, resignation or incapacity of a member of the committee shall be filled by the nomination of a member by the Chairman of Committees or the Speaker of the House of Commons, as the case may be.

(4) The quorum of the committee shall be two members of each House and the committee shall be entitled to sit and to transact business whether Parliament be sitting or not, and notwithstanding a vacancy in the membership of the committee.

(5) Subject to the above provisions, the committee may regulate its own procedure.¹⁰⁰

We welcome the decision to constitute a joint committee to look at the proposal to strip the citizenship of naturalised citizenship. We hope that one of the issues will examine is the impact making a person stateless whilst they are in the United Kingdom.

101. We have grave concerns about how effective the deprivation of mono-citizenship powers will be. Drafting legislation on the basis of an individual case lessens the impact of the legislation because the exact circumstances are unlikely to repeat themselves. We support the Minister's commitment to the power being used sparingly. We recommend that the Government endeavour to use the power only when the person subject to the decision is outside the UK.

Terrorism Prevention and Investigation Measures

102. Terrorism Prevention and Investigation Measures (TPIMs) were introduced in January 2012 as the successor to control orders.¹⁰¹ TPIMs are used by the Government to monitor and restrict the actions of those who are suspected of terrorist-related activity but who cannot be prosecuted or deported. The Home Secretary is responsible for the decision to make an individual subject to a TPIM order, but subject to the prior approval of the

¹⁰⁰ HL Deb, 7 Apr 2014: [Col 1167](#)

¹⁰¹ The Terrorism Prevention and Investigation Measures Act 2011, which repealed in its entirety the Prevention of Terrorism Act 2005

court, except in urgent cases, where the court must consider the TPIM notice within seven days of it being issued. The subject is not permitted to participate in these hearings directly, but his or her interests are represented by a special advocate appointed (in England and Wales) by the Attorney General. The special advocate is not responsible to the person whose interests he or she is appointed to represent.

103. A TPIM notice may be made by the Secretary of State only if the following five conditions are satisfied:

- The Secretary of State must reasonably believe that the individual is or has been involved in terrorism-related activity, as very broadly defined (“Condition A”);
- Some or all of that activity must be “new” (“Condition B”), though in the case of a first TPIM to be imposed on a given subject, this condition is always met since activity occurring at any time is deemed to be “new”.
- The Secretary of State must reasonably consider that it is necessary, for purposes connected with protecting members of the public (whether in the UK or overseas) from a risk of terrorism, for TPIMs to be imposed on the individual (“Condition C”);
- The Secretary of State must reasonably consider that it is necessary, for purposes connected with preventing or restricting the individual’s involvement in terrorism-related activity, for the specified TPIMs to be imposed on the individual (“Condition D”);
- The High Court must give prior permission for the TPIM notice to be imposed, such permission to be withheld when the decisions of the Secretary of State on Conditions A–D are “obviously flawed”, save in urgent cases where permission may be obtained retrospectively (“Condition E”).¹⁰²

104. Given that two of those subject to TPIMs have absconded (Ibrahim Magag absconded on 26 December 2012 and Mohammed Ahmed Mohamed on 1 November 2013), one has been revoked whilst the subject is in prison and that the remaining TPIMs expired by 10 February 2014¹⁰³, we feel that it is a subject worth examining in more detail. There are currently no active TPIMs. TPIM subjects in 2013 were subject to restrictions which included overnight residence at a specified address, GPS tagging, reporting requirements, and restrictions on travel, movement, association, communication, finances, work and study.¹⁰⁴

105. TPIM notices expire after a year, and may be renewed for a maximum of one further year. The TPIMs imposed at the start of 2012 expired, after the single permitted extension, in early 2014. This means that people who have been judged by the Home Secretary and by

¹⁰² Terrorism Prevention and Investigation Measures in 2012, First Report of The Independent Reviewer on the Operation of the Terrorism Prevention And Investigation Measures Act 2011 (March 2013) (hereafter, “TPIMs report 2012”), p 19

¹⁰³ *Ibid.*, p2

¹⁰⁴ *Ibid.*, p19-20

the courts to be potentially dangerous are now, unless they are prosecuted or new evidence of terrorism-related activity is found, free from restrictions.

The difference between control orders and TPIMs

106. In his 2012 report on TPIMs, David Anderson QC, the Independent Reviewer of Terrorism Legislation included a table which set out the difference between control orders and TPIMs.

	Control orders	TPIMs
Legal Test	Legal test for imposition of control order: reasonable suspicion of involvement in terrorism-related activity; order must be necessary to protect the public.	Legal test for imposition of TPIM notice: reasonable belief of involvement in terrorism-related activity; measures must be necessary to protect the public.
Duration	Order lasted maximum of 12 months. Renewable if necessary to protect the public; no maximum number of renewals where necessity test satisfied. Orders in place in a small number of cases for over 4 years.	Order lasts maximum of 12 months extendable once, giving maximum time limit of 2 years. Evidence of further engagement in terrorism-related activity required to justify a further notice beyond 2 years.
Obligations (general)	Any obligation to protect the public could be imposed where judged necessary and proportionate to disrupt terrorism-related activity. (The obligations were not set out in detail on the face of the legislation.)	A narrower range of measures – described in detail on the face of the Act – can be imposed where judged necessary and proportionate to disrupt terrorism-related activity
Curfew / Overnight residence requirement / Residence requirement	Maximum curfews of up to 16 hours for non-derogating control orders with electronic tagging available to monitor compliance.	A requirement to reside overnight at a specified residence (most TPIM notice specify 10 hours) – with limited stays at other locations possible. Electronic tagging available to monitor compliance.
Relocation	Option to relocate individuals to Home Office provided accommodation – potentially several hours travel away from current residence.	No power to relocate away from local area without agreement. A power to provide alternative accommodation within the locality of the home address.
Communication	Option to have complete prohibition of access to mobile phones, computers and the internet (and associated technology/equipment).	All individuals have a right to use one mobile phone without internet access and one landline telephone. All individuals will be able to have access to the internet through one home computer. Use of equipment will be subject to necessary controls e.g. regular inspection and notification of passwords.
Association	Option to prohibit association with any named individuals where necessary. And option to	Option to prohibit association with named individuals retained. Association with any

	Control orders	TPIMs
	prohibit association without permission with anyone other than named individuals and specified descriptions of persons.	other person requires notification. (Policy intention is that notification will be required on the first occasion (and will be unrestricted on subsequent occasions)).
Work/study	Option to require notification and/or approval of work and study.	Option retained.
Boundary	Option to impose a very restrictive geographical boundary – limiting the individual to a relatively narrow area and excluding him from areas of significant concern. Option to impose a limit on entry to one of more mosques.	No geographical boundaries. Power to exclude from particular places – streets or specified areas or towns – or descriptions of places (e.g. airports, specified mosques).
Travel abroad	Option to prohibit travel abroad.	Option to prohibit travel abroad without permission of Secretary of State.
Police reporting	Option to require daily reporting to the police.	Option retained
Financial	Option to place restrictions on use of financial services and transfers of property and requirements to disclose details of property.	Option retained.
Renewal	Annual renewal of Act	Renewal of Act every five years
Derogation	Derogating control orders possible – if Government was to derogate from Article 5 (right to liberty) of the European Convention on Human Rights – imposing 24 hour curfew (house arrest).	No power orders.
Prospects of prosecution	Police must keep prospects of prosecution under review, consulting CPS as necessary	Police must keep prospects of prosecution under review, consulting CPS as necessary. Police under statutory duty to inform Home Office of outcome.

Source: TPIMs report 2012, Pg. 102

107. The Quilliam Foundation noted that

The Terrorism Prevention and Investigation Measures Act 2011 is a welcome amendment that repeals and replaces the Control Orders in the Prevention of Terrorism Act 2005. It thereby ensures greater compatibility with the ECHR and less intrusion on the human rights of the individuals subject to them than the previous control orders, particularly in reference to the potential forced relocation and indefinite length of the control orders that have now both been written out of the revised TPIM legislation. However there remain several significant problems with TPIMs that mean they are inconsistent with a clear human rights-based counter-extremism strategy.¹⁰⁵

¹⁰⁵ [CTE0027](#)

Cerie Bullivant, who was subject to a control order between 2006 and 2008, told us that he saw very little difference between the two. Although he welcomed the abolition of the power to relocate subjects and the two-year limit on the duration of a TPIM, he told us that life under each order would be exactly the same.¹⁰⁶ The Quilliam Foundation suggested that one way of improving TPIMs would be to have an additional element that comprises de-radicalisation, rehabilitation and reintegration.¹⁰⁷ An exit strategy developed by specialised probation officers with approved mentors from external organisations was the recommendation made by David Anderson QC.¹⁰⁸ We return to this subject below.

TPIM breaches

Mohammed Ahmed Mohamed

108. On 1 November 2013, Mohammed Ahmed Mohamed absconded from his TPIM by entering a mosque, removing his electronic tag and leaving dressed in a burkha. In the statutory review of his TPIM in 2012, the High Court found that Mr Mohamed was closely linked to a UK-based terrorist network with links to Al Qaida and Al-Shabaab. He had travelled to Somalia where he received training in 2008 from experienced Al-Shabaab operatives, after which he went on to fight for them on the front line in Somalia. He helped others to travel from the UK to Somalia for similar purposes and he facilitated the support of the UK-based network for terrorism-related activity in Somalia. The network, which included Ibrahim Magag and Jama Hersi, had access to money (which Mr Mohamed was involved in procuring), false passports and documentation, as well as equipment, and was involved in procuring funds for terrorism-related activity. Between 2008 and 2010, Mr Mohamed was involved in procuring weapons and planning attacks in Somalia and elsewhere, including a planned attack on the Juba Hotel in Mogadishu in August 2010. Other attacks were planned against western interests in Somaliland.¹⁰⁹ The Home Office have provided us with a chronology of their involvement with Mr Mohamed (see Annex A).

109. The Metropolitan Police told us that they were satisfied with their response to the absconsion and did not feel that it could have been improved upon.¹¹⁰ However David Anderson QC has recommended that some form of locational restraints to be introduced in to TPIMs in order to lessen the ability of subjects to abscond.¹¹¹ **It is deeply worrying that anyone who is subject to a TPIM, or those who were subjects of control orders, can abscond with relative ease. We recommend that a review of the types of measures placed upon subjects needs to be conducted to ensure that enough is being done to prevent absconsion.**

¹⁰⁶ Q423

¹⁰⁷ [CTE0027](#)

¹⁰⁸ TPIMs report 2012, p53

¹⁰⁹ <http://www.bailii.org/ew/cases/EWHC/Admin/2012/2837.html>

¹¹⁰ Q356

¹¹¹ TPIMs Report 2012, p4

110. During our evidence session it emerged that Mr Mohammed had been arrested on three occasions, for a total of 21 suspected breaches of the terms of his Control Order (March 2011 to February 2012) or TPIM (since February 2012) . He was remanded in custody after each of these arrests, but the Court subsequently ruled in each case that he should be released on bail. The prosecution in relation to the third arrest (on suspicion of a ‘tag tamper’ on 16 May) was discontinued, but Mr Mohamed was still on bail when he absconded. He is due to stand trial for these alleged breaches (which do not include the absconion) in the week beginning 28 April 2014. If he is not present, it is likely that the trial will be postponed. Mr Mohammed has also brought an appeal against the original decision of the High Court to uphold his TPIM and a separate civil claim against the Government. These cases are currently active before the courts and we make no comment on them, though the next steps are uncertain in Mr Mohammed’s continued absence.

Prosecution of TPIM breaches

111. The Home Office have provided details of other cases where a TPIM has been breached following their introduction in 2012.

- One person pleaded guilty to three counts of breaching: broadcasting without permission, attending a meeting or gathering without permission and entering an internet cafe without permission. He was sentenced to nine months imprisonment on 21 June 2013. Charges in relation to a further three counts were allowed to lie on file following his guilty plea.
- One person was charged with five counts of entering an excluded area without permission. The CPS discontinued the prosecution because, in their view, there was no realistic prospect of a conviction.
- In three cases (of which Mr Mohamed was one) charges relating to tampering with the electronic monitoring tag were discontinued after the CPS concluded that challenges to the reliability of the forensic evidence meant that, in their view, there was no realistic prospect of a conviction.
- One person was found not guilty in relation to two counts of breaching—failure to report to the police station and failure to report to the monitoring company as required.
- One person is currently remanded in custody awaiting trial, having been charged with one count of breaching—having an unauthorised meeting.

112. David Anderson QC suggested that one of the difficulties with prosecuting breaches of TPIMs was that juries often considered the breach to be a ‘trivial’ matter and were therefore reluctant to convict. In his report on TPIMs, he gave this example:

Another subject (CF) was charged in June 2012 with entering the Olympic Park, an excluded area, without permission. The CPS decided not to pursue the prosecution in September 2012.

[...]

The alleged breach consisted of CF sitting on an over-ground train as it crossed the Olympic Park, on his way to visit his solicitor in Stratford. After receipt of evidence to the effect that the subject had been advised to take that route by a junior employee of the solicitor's firm, charges were dropped – presumably on the basis that if the case had been left to them, the jury would inevitably have found there to be a reasonable excuse.¹¹²

The Government's position on decisions to prosecute for breach of TPIMs is that

The police investigate all potential breaches and consult with the CPS regarding the viability of prosecution in each case. Where there is sufficient admissible evidence and it is deemed to be in the public interest, a prosecution for breach of the measures in a TPIM notice will usually be taken forward.¹¹³

However, information provided by the Home Office shows that at the time of writing there have been three trials for breach of a TPIM, one guilty plea and two forthcoming trials (one of which is that of Mohammed Ahmed Mohamed). Not one of the three trials for a breach of a TPIM has been won by the CPS. In two trials the defendants have been found not guilty and in the third, the CPS discontinued the prosecution due to a lack of realistic prospect of conviction. **So far there have been no jury convictions of breaches of TPIMs or Control Orders and the CPS needs to bear this in mind when bringing prosecutions. We recommend that the Government and Crown Prosecution Service produce specific guidance on investigating and prosecuting breaches. The continued failure to secure a conviction undermines the system of TPIMs.**

The prosecution of 'tag tampering'

113. In regards to the 'tag tamper' case, Mr Mohamed's solicitors—who represent two-thirds of those subject to TPIMs—have written to us to highlight the deficiencies which they believe to exist with the tags. They note that all of their TPIMs clients have been accused of tampering with their tags and that this is an accusation which “all have strenuously denied from the outset in police interviews and in subsequent correspondence from their lawyers to the CPS.”¹¹⁴ They further note that another TPIM subject who was represented by a different firm of solicitors had been subject to the same allegation of tampering with their tag resulting in a tag-tamper alert for which the CPS maintains that there is “no innocent explanation”. In evidence to us, G4S told us that

¹¹² TPIMs report 2012, p83

¹¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199897/response-tpim-2012.pdf

¹¹⁴ [CTE0018](#)

In terms of tamper detection systems and capabilities, this uses proven technology which we have had in place in our equipment for many years now and which has proved to be extremely reliable and robust.¹¹⁵

114. Mr Mohamed's solicitors have consulted experts who believe that the tamper alerts are a result of the attachment of the larger GPS tag which are more likely to be "snagged, twisted or rotated away from the leg", using the same strap as used on the smaller, more widely used tags. It has been noted that the tags have not been subjected to tests to establish the effect of praying five times a day (which can involve repeated flexion and rotation of the ankle) can have on the tag and strap, and that, due to the size of the tag, it can be subject to greater wear and tear. Mr Mohamed's solicitors note that "more than one wearer of the new tag has reported tripping/falling down stairs, and knocking, for instance on a bicycle." Ross Anderson, Professor of Security Engineering at the University of Cambridge, was consulted on tampering prosecutions and concluded that

The quality of evidence is poor, and in at least five cases now, when defence experts have asked to examine the tags a defendant was supposed to have tampered with, or the systems, or even samples of straps and clips, the prosecution has been withdrawn or collapsed.¹¹⁶

115. Many breaches of a TPIM order are minor infringements which might plausibly have happened inadvertently. It is therefore right that the CPS does not prosecute every single breach, considering the cost to the public purse and the difficulty of convincing a jury of the materiality of the alleged breach without being able to explain the basis on which the relevant restriction was included in the order. It is worth noting that no prosecution has been successful following a not-guilty plea and in only one case has the accused pleaded guilty. In the case of the tag tampering trial, it is of serious concern that the prosecution was discontinued. Deliberately tampering with a tag must be viewed as an attempt to abscond and we recommend that the Home Office request independent testing of the tags provided by G4S to definitively prove, as they claim, a tag-tamper alert can only be caused through deliberate actions. This will enable the Home Office to present reliable evidence to the court that such an alert cannot be caused inadvertently. Given that five prosecutions for tag tampering have been withdrawn or collapsed it is vital that both the public and TPIM subjects understand the extent to which it might or might not be possible for a tag-tamper alert to be innocently caused.

De-radicalisation of those subject to TPIMs

116. In his report examining the operation of TPIMs in 2012, the Independent Reviewer emphasised that the imminent two-year limit would "focus energies on finding an exit strategy", but suggested that more needed to be done in this area. He recommended that exit strategies should in future include the integration of any related Prevent activity into

¹¹⁵ Q53

¹¹⁶ [CTE0018](#)

the management of the TPIM,¹¹⁷ as well as giving consideration to some form of dialogue with subjects similar to that employed in criminal cases, where the probation service proposes how an individual might best be rehabilitated.¹¹⁸ In his 2013 report on TPIMs, David Anderson noted that his central recommendation—that a power to require attendance at meetings with specified persons for the purposes of de-radicalisation and re-integration—was not accepted by the Government despite the fact that it was supported by the Joint Committee on Human Rights, the police, the security service and the National Probation Service.¹¹⁹

117. When he appeared before us, Mr Anderson again highlighted the importance of an exit strategy. He allowed that it would not de-radicalise all of those subject to TPIMs, but argued that it might have an impact on some.¹²⁰ Assistant Commissioner Cressida Dick also highlighted the need for a processes for managing the risk associated with the lifting of TPIM restrictions:

We will need to manage any lingering risk that there may be around [former TPIM subjects] and also in this phase work as well as we can with them to try to ensure that they don't pose any further risk.¹²¹

We examined de-radicalisation during our inquiry into *The Roots of Violent Radicalisation* in 2012, where we noted the importance of family and community support in the counter-radicalisation process.¹²² The anonymity order which is traditionally granted to those on TPIMs makes this difficult. However the Home Secretary has told us that Prevent interventions play a part in operational planning to manage the risk from TPIM subjects after the expiry of TPIM measures. In his 2013 report, David Anderson QC also emphasised the importance of devising a TPIMs exit strategy as soon as the TPIM is imposed in order to allow time for trust to be built between the TPIM subject and the probation officer.¹²³

118. In evidence, Cerie Bullivant told us that no attempt had been made to de-radicalise him either when his control order was in force or after it had been quashed, despite the Home Office continuing to assert that he was dangerous.¹²⁴ We note that in their recent Post Legislative Scrutiny report which examined TPIMs legislation, the Joint Committee on Human Rights also questioned the Government's de-radicalisation work with those subject to TPIMs. The report highlighted that

¹¹⁷ Prevent is one of the four elements of CONTEST, the government's counter-terrorism strategy. It aims to stop people becoming terrorists or supporting terrorism. See Nineteenth Report from the Home Affairs Committee of Session 2010–12, [Roots of violent radicalisation](#) (HC 1446)

¹¹⁸ TPIMs report 2012, p95

¹¹⁹ TPIMs report 2012, p53-54

¹²⁰ Q109

¹²¹ Q357

¹²² Home Affairs Committee, Session 2010–12, [Roots of violent radicalisation](#) (HC 1446), para 64

¹²³ TPIMs report 2012, p54

¹²⁴ Q432

We sought to find out more about the work being done with the individuals concerned, such as how it relates to the Government's wider –de-radicalisation work; what sorts of agencies or other organisations the Government has sought to involve in this work; whether any work has been done with the families of TPIMs subjects, given the significant impact of TPIMs on them and the risk of creating a new generation subject to the influence of extremist narratives; and whether any TPIMs subjects are being actively helped into work or study to assist with their reintegration when their TPIM expires. On all of these questions, we found the Government to be unforthcoming.¹²⁵

119. The Home Secretary told us that TPIMs is one of the tools the Home Office uses for monitoring the activities of foreign fighters on their return from places like Somalia and Syria¹²⁶ although no TPIMs have yet been imposed on those who taken part in the Syrian conflict. Shiraz Maher, Senior Fellow at the International Centre for the Study of Radicalisation noted that there had been variable success with de-radicalisation strategies within the UK but warned that any strategy to de-radicalise those who had fought in the Syrian conflict would need to deal with the intra-Muslim conflict rather than the traditional 'West versus Islam' narrative on which the PREVENT strategy currently focuses.

120. It is essential that the Government engages with those placed on a TPIM whilst they are subject to the control and not only afterwards. It is a missed opportunity not to implement a de-radicalisation programme until the subjects are free of the measures. We recommend that all TPIM subjects are placed on a graduated scheme, which commences concurrently with the measures, with the sole purpose of engagement and de-radicalisation. We accept that the anonymity order may cause difficulties in terms of liaising with the local community when seeking support for that process. However, we believe that the Government should engage with community leaders who are working with prisoners and ex-prisoners who have been radicalised in order to design a programme which would be suitable for TPIM subjects. Such a programme should take account of the different narratives of radicalisation. Due to the constraints placed on a subject it is unlikely that they will be eager to engage with the state or official parts of society. It is disastrous, therefore, for a subject to left without a constructive path towards reintegration following the end of the measures. The Government must ensure that an exit strategy is started as soon as the TPIM is imposed upon a subject. We recommend a continuation of the de-radicalisation engagement programme which they would have started under the TPIM which evolves into a more practical scheme enabling the former subject to reconnect with society through work or education.

¹²⁵ Joint Committee on Human Rights, Tenth Report of Session 2013–14, [Post-Legislative Scrutiny: Terrorism Prevention and Investigation Measures Act 2011](#), HC 1014, para 78

¹²⁶ Home Affairs Committee, *The work of the Home Secretary*, [HSE0002](#)

Countering extremist narratives

121. In our previous report on counter-terrorism, we noted that the internet could play a role in the radicalisation of vulnerable individuals.¹²⁷ The inducement to travel to Syria to fight in the civil war seems to have taken place largely over social media.¹²⁸ Dr Hegghammer told us

Syria is the most socially mediated conflict in history and there is an enormous amount of audio-visual documentation produced by rebels themselves, documenting the things they do ... social media affects recruitment simply by linking people up—Facebook, for example. When someone travels to Syria and posts pictures from there and his friends see those pictures, those friends are more likely to be inspired to go. That is not really propaganda; that is just regular information conveyed through online social media that then facilitates recruitment.¹²⁹

122. Countering the extremist narrative is something that must be supported both within the community and by public authorities. The Metropolitan Police highlighted the importance of parents and mosque leaders as well as visits to schools by police officers.¹³⁰ The role of Governments in countering extremist narratives is thought to be most effective when they act as a facilitator for other groups rather than delivering their own alternative narrative. The Institute for Strategic Dialogue suggest that

One of the most important roles for government is in building capacity among those best suited to act as counter-narrative messengers and campaigners, who often lack the basic skills and competencies to do this work effectively and at scale. This would focus on technical, communications and strategic knowhow to ensure they understand how to construct their messages, can develop the kinds of products and vehicles that will be well received by an increasingly digitally-savvy generation used to high production values, apply smart marketing strategies and have the right networks to generate communication economies of scale.¹³¹

The EU Counter-Terrorism Coordinator supported this view noting that Governments themselves are seen as biased making the priority creating an environment which is conducive to counter-narrative.¹³² Both the EU Counter Terrorism Coordinator and Richard Barrett suggested using the experiences of those who had returned from Syria as a method of counter-narrative.¹³³

¹²⁷ Home Affairs Committee, Session 2010–12, [Roots of violent radicalisation](#), HC 1446, para 33

¹²⁸ Q487; 517

¹²⁹ Q576-5

¹³⁰ Q368-9

¹³¹ Institute of Strategic Dialogue, Review of programs to counter narratives of violent extremism, 2013, p26

¹³² Q517

¹³³ Q518; 692

123. There are a number of civil society groups which work to produce a counter-narrative. There are also examples of private sector involvement in assisting the development of counter-narrative. The Against Violent Extremism network which is made up of a number of former extremists and survivors of terrorism who engage with individuals and organisations that are developing counter-extremist messages. The AVE network receives funding from private sector—the Gen Next Foundations and Google Ideas.¹³⁴

124. Google also facilitates the development of counter-narratives through a project run by YouTube, which we visited during our inquiry. YouTube run workshops through which it provides a variety of free, in-kind support and services to civil society organisations. This includes offering advice from creators with high audience numbers, support through training on and access to production equipment including time in certain YouTube studios. This project was highlighted by the Immigration and Security Minister as the sort of initiative that the Government was keen to encourage.¹³⁵

125. One example of the projects which has been assisted by private sector funding is that of Abdullah-X, a short animated mini counter-narrative graphic novel which describes a fictional character's journey and adventures based on countering extremism and hate. This has involved advice on the design of the content and in-kind support to tailor the cartoon's delivery.¹³⁶ Abdullah-X was created by a former extremist and the most recent Abdullah-X video discusses the desire to travel to fight in Syria and alternative methods of helping the Syrian people. Such work is an excellent example of work by those within the Muslim community to counter the extremist narrative.

126. We welcome the progress made by internet companies such as Google (who own YouTube) in the work they are doing to promote counter narratives. We commend the work by the creators of Abdullah-X and note the importance of peer-led education. Given the role that social media is playing in the dissemination of extremist messages we hope that other large multi-national social media companies will follow suit. We note the significance of the independence of funding for these types of project but recognise the desperate need for more resources to be made available. We, therefore, recommend that the Government asks the European Union and other independent funders to prioritise resources for community projects such as Abdullah-X.

Countering terrorist financing

127. There has been an increase in activity to counter the financing of terrorist activity since the events of 9/11. Despite a host of regulations having been introduced, identifying terrorist financing is still an area of limited success. Written evidence submitted to us suggested that this was the fault of government departments who were drawing up requirements without issuing guidance on they ought to be implemented, stating

¹³⁴ Institute of Strategic Dialogue, Review of programs to counter narratives of violent extremism, 2013, p20

¹³⁵ Q890

¹³⁶ Institute of Strategic Dialogue, Review of programs to counter narratives of violent extremism, 2013, p20

banks and other financial service providers are effectively expected to play a counter-terrorist role with almost no meaningful assistance from the authorities.¹³⁷

This is further compounded by the fact that in the UK, the responsibility for countering terrorism finance is spread across a number of departmental departments and agencies with no department in charge of overseeing the policy.

128. David Anderson's report on terrorist asset freezing in 2013 found that only one person (a Syrian national) had been designated in the period up to September 2013. He noted that designation was not being considered in all the cases in which it could be of value and that none of the 24 terrorists who had been convicted in early 2013 have been designated. He suggests that

The fact that asset-freezing is administered by a different department from other counter-terrorism powers means however that extra effort may be required if asset-freezing is always to be considered as an alternative to or in conjunction with other possible disposals for those believed to be engaged in terrorism.¹³⁸

The EU's Counter-Terrorism coordinator told us that no bank accounts had been frozen in relation to EU nationals travelling to fight in the Syria conflict.¹³⁹ We have also heard suggestions that the financial information of individuals could be used to identify foreign fighters, either on a standalone basis or in conjunction with data from social media.¹⁴⁰

129. We recommend that the responsibility for countering terrorist financing be given to the Office for Security and Counter-Terrorism where it will be considered a higher priority. Although it is not an area where success comes easily, cutting off the flow of money to terrorist organisations and the identification of foreign fighters are vital to the UK's response to the terrorist threat.

Charities

130. There are over 350,000 charities in England and Wales of which over 163,000 are registered with the Charities Commission. Although the total annual income of the 163,000 registered charities is £60 billion, just under half will have an annual income which has less than £10,000. The Charity Commission told us that the vast majority of charities are not at risk of terrorist abuse but that a small minority might be at risk from their funding being diverted for terrorist purposes or for charity personnel using the charity as a cover for travelling overseas or raising funds.¹⁴¹

¹³⁷ [CTE0014](#)

¹³⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266421/third_report_on_operation_of_tafa2010_171213.pdf

¹³⁹ [CTE0034](#)

¹⁴⁰ [CTE0040](#)

¹⁴¹ [CTE0022](#)

131. Following the death of the first British suicide bomber in Syria, concerns were raised on the basis that he had joined a humanitarian convoy organised by a charity in order to travel out to Syria. On 24 February 2014 the Charities Commission launched a regulatory alert for charities sending humanitarian convoys to Syria, warning them that Foreign Fighters may well be joining convoys in order to travel to Syria to fight the Assad regime.¹⁴² In a press interview, the Charity Commission's head of investigations and enforcement said more than a fifth of its 48 current terror investigations now relate to Syria.¹⁴³ However, in the Commission's written evidence, it is highlighted that

The Commission is not a prosecuting authority and does not conduct criminal investigations. Where there are concerns about suspected terrorist abuse connected to a charity, the Commission will always liaise with and work closely with the police and the Security Service as terrorist activity is a criminal offence.¹⁴⁴

132. The Henry Jackson Society criticised the Charity Commission for its lack of effectiveness in countering terrorist abuse of charities.

The Charity Commission has demonstrated limited abilities to tackle fundraising by U.K.-based charities for terrorist purposes, and, more broadly, to vet or disqualify unsuitable charitable trustees by virtue of their association with terrorism.¹⁴⁵

The Society suggested that lack of resources was a significant issue for the commission. Professor Clive Walker suggested that the system could be improved by instituting a financial investigation approach which

should primarily be conducted by a formal police body. The roles left for the Charity Commission would be as standard-setter, as standard-monitor (with early alerts back to the police financial investigators), and as standard-applier (with police advice).¹⁴⁶

Professor Walker suggests that had such an investigatory system existed in the past then it could have improved provision of information about terrorist networks and reduced the facilitation of militancy without diverting money from worthy causes. We note that our sister committee, the Public Accounts Committee made a recommendation earlier this year needed to respond more quickly in relations to concerns around individual charities.¹⁴⁷ In its formal response the Charity Commission emphasised that it needed both

¹⁴² <https://www.charitycommission.gov.uk/news/syria-and-aid-convoys/>

¹⁴³ http://www.thesundaytimes.co.uk/sto/news/uk_news/National/article1379084.ece

¹⁴⁴ [CTE0022](#)

¹⁴⁵ [CTE0015](#)

¹⁴⁶ [INQ0011](#)

¹⁴⁷ Public Accounts Committee, Forty-second Report of Session 2013–14, *The Charity Commission*, HC 792, p5

more resources and stronger legal powers in order to prevent and tackle abuse and mismanagement.¹⁴⁸

133. There have also been concerns raised around the impact that regulations aimed at countering terrorist financing have on charities trying to move funds in to areas of conflict. The Charity Finance Group told us that a number of international charities are finding it increasingly challenging as banks become overly risk-averse. The examples given were the withdrawal of banking facilities from money service businesses in Somalia and the inability to transfer funds in to Syria. It emphasised the role that charities play in countering terrorism.

Many international charities have operations that provide humanitarian assistance, healthcare, outreach and infrastructure building – all of these activities support and the stabilising and development of regions, which in turn contributes to restricting the growth of terrorist activity abroad. Civil society plays a key – albeit secondary - role in supporting counter-terrorism efforts and this consideration should be the starting point when developing policy to prevent the abuse of charities by terrorist organisations.¹⁴⁹

The Independent Reviewer of Terrorism Legislation has announced that he is intending to examine this subject over the next year following UN recommendation that more work needed to be done to reconcile counter-terrorism measures and humanitarian effort.¹⁵⁰

134. We are deeply concerned with the potential for ‘bogus’ charities to dupe members of the public into raising funds which are eventually used to support terrorist activity. We recommend that the Charity Commission be granted extra resources and stronger legal powers to counter the abuse of charities by terrorists. We also recommend that the Charity Commission be able to undertake unannounced inspections in order to audit their accounts.

135. We welcome the Independent Reviewer of Terrorism Legislation’s inquiry in to the impact of counter-terrorism legislation on charities and recommend that it be expanded to look at the scale of abuse of charitable status to support terrorist actions. We recommend that he assess the response to such abuse and suggest changes which will improve the ability of the authorities to tackle terrorist financing whilst ensuring that law-abiding charities can continue their vital work.

The proposal to move counter terrorism to the National Crime Agency

136. The national Police CT Network comprises of

- the Counter-Terrorism Command (SO15) within the Metropolitan Police;

¹⁴⁸ <http://www.charitycommission.gov.uk/news/commission-chairman-calls-for-adequate-funding-and-stronger-powers/>

¹⁴⁹ [CTE0019](#)

¹⁵⁰ [Terrorist Asset-Freezing etc. Act 2010, Independent Reviewer’s Annual Report](#), December 2013, p25

- four Counter-Terrorism Units (CTUs) in the West Midlands, West Yorkshire, Greater Manchester and Thames Valley; and
- Counter-Terrorism Intelligence Units (CTIUs) in the East Midlands, South West and Eastern regions, and Wales and Scotland.

137. The Metropolitan Police's SO15 Counter Terrorism Command was created in 2006, taking over the roles and responsibilities of the Anti-Terrorist Branch and Special Branch. It is designated to protect London and the UK from the threat of terrorism. Counter Terrorism Command is responsible for:

- bringing to justice those engaged in terrorist, domestic extremist and related offences;
- providing a proactive and reactive response to terrorist, domestic extremist and related offences, including the prevention and disruption of terrorist activity;
- supporting the National Co-ordinator of Terrorist Investigations outside London;
- gathering and exploiting intelligence on terrorism and extremism in London;
- assessing, analysing and developing intelligence to drive operational activity;
- engage in partnerships with London's communities in order to understand their concerns and to provide reassurance and support where needed;
- providing an explosive ordnance disposal and chemical, biological, radiological and nuclear capability in London
- assist the British Security Service and Secret Intelligence Service in fulfilling their statutory roles;
- to be the police single point of contact for international partners in counter-terrorism matters;
- assisting in the protection of British interests overseas and the investigation of attacks against those interests.¹⁵¹

The regional Counter-Terrorism Units have been set up in the past few years and are resourced by 'lead' police forces. Their role includes the gathering of intelligence and evidence to help prevent, disrupt and prosecute terrorist activities.¹⁵²

138. Following the proposed creation of the National Crime Agency, there were suggestions that the counter-terrorism policing could move from the Metropolitan Police in to the NCA. On 8 June 2011, the Government published *The National Crime Agency: A plan for the creation of a national crime-fighting capability*, which expanded on the

¹⁵¹ http://www.met.police.uk/so/counter_terrorism.htm

¹⁵² <http://www.acpo.police.uk/ACPOBusinessAreas/TerrorismAndAlliedMatters.aspx>

information about the National Crime Agency included in *Policing in the 21st Century*. The plan stated that there would be four distinct commands within the National Crime Agency:

- Organised Crime
- Border Policing
- Economic Crime
- Child Exploitation and Online Protection Centre.

The plan did not rule out the possibility that counter-terrorism could be one of the National Crime Agency's responsibilities at some point in the future:

Counter-terrorism policing already has effective national structures. The Government is considering how to ensure these strengths are maintained and enhanced alongside the rest of its new approach to fighting crime. However, no wholesale review of the current counter-terrorism policing structures will be undertaken until after the 2012 London Olympic and Paralympic Games and the establishment of the NCA.¹⁵³

In their written evidence to this inquiry, the Home Office did not elaborate further upon their intentions.

The NCA will lead work on serious, organised and complex crime, including cyber crime and border security. Once the agency is up and running the Government will consider what - if any - role, it should play in respect of CT. Until then, the NCA will work with the Police CT Network on issues of common interest.

139. We note that the Metropolitan Police believe that in order to maintain the link between neighbourhood policing and counter-terrorism policing, the police counter-terrorism network should not be moved to the NCA. Their written evidence to this inquiry emphasised the prevention and detection work carried out by front line policing where the neighbourhood officer's role is the ability to build relationships, confidence and trust. It is hoped that such a relationship will encourage greater public vigilance, responsiveness and passing of intelligence. It is also noted that front line policing that will be the first to respond to a terrorist attack where they will act to preserve life, safety and evidence. It is that response which sets the tone for the investigation and wider community confidence.¹⁵⁴ In this opinion, they are supported by David Anderson QC who told the Committee that

We have a system that, although not ideal, does at least work pretty well and it has one priceless benefit that one does not see to the same extent in a lot of other countries, which is a pretty good operational relationship between police and intelligence. At the other end you have another benefit. You saw, for example, the investigation of the murder of Mohammed Saleem in

¹⁵³ *Ibid.*

¹⁵⁴ [INQ0003](#)

Birmingham earlier this year. That was a terrorism investigation but what you saw there was specialist terrorist police working very well with local police. By the end it was a question of knocking on doors and say, “Have you seen this man?” Again, the fact that the unit was embedded in the local community and was part of a local force, I think, had some usefulness.¹⁵⁵

140. Both Charles Farr¹⁵⁶ and Professor Sir David Omand highlighted the effectiveness of the relationship between the police, the security and intelligence agencies and the Crown Prosecution Service. However Professor Sir David Omand also noted that

the present arrangements involving the Security Service and the Met and the other police services in England and Wales and Scotland are not the only possible ones, nor necessarily the most economical. But they have evolved under fire and I would be very cautious about seeking to replace them with a theoretical structure that might look tidier on paper, such as giving the lead to the NCA, until we have seen both a significant diminution in the threat and an NCA that has established itself firmly as being on the top of its game in relation to serious organised criminality.¹⁵⁷

141. The National Crime Agency was established as a national mechanism as part of the changing landscape of policing. Like all new organisations, it is still seeking to establish a strong identity and its own remit. For instance, we remain concerned that the NCA does not have full operational capacity in Northern Ireland. The Metropolitan Police have a wide remit which has many complexities and the current difficulties faced by the organisation lead us to believe that the responsibility for counter-terrorism ought to be moved to the NCA in order to allow the Met to focus on the basics of policing London. The work to transfer the command ought to begin immediately with a view to a full transfer of responsibility for counter-terrorism operations taking place, for example within five years after the NCA became operational, in 2018. When this takes place, it should finally complete the jigsaw of the new landscape of policing.

Partnership in the fight against terrorism

142. Although the counter-terrorism command and the security service are pivotal in the fight against terrorism, others also play a role. In 2012, a traffic police officer impounded a car which didn't have insurance which led to a discovery of weapons. The weapons (and a homemade bomb) were to have been used against supporters of the EDL at a rally in Dewsbury. In 2007, a plot to blow up the Tiger Tiger nightclub in London was discovered when Ambulance staff reported a suspicious vehicle to Police. The vehicle was discovered to contain a bomb which was defused.

143. During the visit to Kenya undertaken as part of this inquiry, we visited the site of the Westgate shopping centre where terrorists killed scores of people. The devastation caused

¹⁵⁵ Q124

¹⁵⁶ Q232

¹⁵⁷ [INQ0012](#)

by the acts of terrorism that day highlight the need for vigilance on the part of the public and private enterprise. Terrorists can strike anywhere and previous terrorist plots in the UK have focused on shopping centres (including planned attacks on Bluewater and the Trafford Centre). The National Counter Terrorism Security Office has produced Counter Terrorism Protective Security Advice for Shopping Centres.¹⁵⁸ However, as the British Council of Shopping Centres notes

Security of shopping centres is not just about conducting risk assessments and installing the latest equipment. The way in which operators are trained, their use of equipment and the general environment in which this equipment is used, will all have a significant impact on the overall performance of the security system.¹⁵⁹

Following the Westgate attack, the British Council of Shopping Centres issued up to date guidance on firearms attacks in shopping centres, noting the importance of developing and testing a Response Plan.¹⁶⁰

144. Both members of the public and those in private enterprises have to ensure that vigilance is constant, this is especially important in areas where crowds of people congregate. Those in charge of areas visited by high numbers of people (such as shopping centres) must ensure that they have adequate security, surveillance and response plans. Ensuring public safety cannot be the sole purview of the counter-terrorism command and the security service, it is a responsibility in which all UK citizens and companies take a share. We note that the British Council of Shopping Centres have updated their guidance following the Westgate attack. We recommend that all police forces ensure that local shopping centres have received this guidance and put in place and test a Response Plan.

¹⁵⁸ http://nactso-dev.co.uk/system/cms/files/120/files/original/Shopping_Centres_2011.pdf

¹⁵⁹ http://www.bcsc.org.uk/media/downloads/2012_HumanFactors.pdf

¹⁶⁰ http://www.bcsc.org.uk/publication.asp?pub_id=487

6 Oversight of the security and intelligence agencies

145. The oversight of the security and intelligence agencies has long been a matter of concern for this Committee. In reports in 1992 and again in 1997¹⁶¹ we have recommended that the security service (which is nominally under the purview of the Home Secretary although its head reports directly to the Prime Minister) ought to be subject to scrutiny from the Home Affairs Committee. We have consistently been denied the opportunity to take evidence from senior officials who work in the national security structure and we are highly unimpressed that we had to summon the independent Intelligence Services Commissioner in order to take evidence from him. For information we have attached an analysis on the UK and US systems of oversight of the security and intelligence agencies which examines the plaudits and criticisms of each system (found at Annex B). We believe that the current oversight is not fit for purpose for several reasons which we set out below.

Parliamentary oversight

146. The UK's intelligence and security agencies were not recognised in statute until 1989 (MI5) and 1994 (MI6 and GCHQ) when a ruling from the European Court of Human Rights required them to be placed on a statutory footing. The Intelligence and Security Committee was set up by act, the Intelligence Services Act 1994 (and later amended by the Justice and Security Act 2013), which means that it is a statutory body, rather than a Select Committee appointed by the House.

147. The Intelligence and Security Committee was set up as a Committee of nine parliamentarians appointed by the Prime Minister after consultation with the Leader of the Opposition. The Chairman of the Committee was also appointed in the same manner. The Committee were then required to produce an annual report to the Prime Minister who, in consultation with the Intelligence and Security Committee, would then redact any information considered to be harmful to national security before presenting the report to Parliament at a time of his or her choosing.¹⁶²

148. The statute concerning the Intelligence and Security Committee was then amended by the Justice and Security Act 2013 which made the following changes:

- The relevant House of Parliament now appoints their own of the 9 members of the Committee (although only on the basis of nominations by the Prime Minister in consultation with the Leader of the Opposition)
- The Chair of the Committee is now chosen by the membership of the Committee

¹⁶¹ Home Affairs Committee, First Report of Session 1992-93, *Accountability of the Security Service*, HC 265; Home Affairs Committee, Third Report of Session 1998-99, *Accountability of the Security Service*, HC 291

¹⁶² <http://www.legislation.gov.uk/ukpga/1994/13/section/10>

- It broadened the remit of the ISC to allow it to examine operational matters under certain circumstances
- It required the Committee to report to Parliament although the Prime Minister is still, in consultation with the Intelligence and Security Committee, able to redact the report¹⁶³
- It no longer allows the head of the security and intelligence agencies to refuse to provide information to the Intelligence and Security Committee (although the relevant Secretary of State can still refuse to allow the Intelligence and Security Committee access to any information he or she decides that such information is ‘sensitive’, should not be disclosed ‘in the interests of national security’ or it is ‘information of such a nature that, if the Secretary of State were requested to produce it before a Departmental Select Committee of the House of Commons, the Secretary of State would consider (on grounds which were not limited to national security) it proper not to do so.’)
- Witnesses to the Committee are given the benefit of their evidence to the ISC being barred from use in any criminal, civil or disciplinary proceedings (unless the evidence was given in bad faith)¹⁶⁴

149. In the time of its existence, the Intelligence and Security Committee has been subject to criticism in regards to a number of their inquiries. The Intelligence and Security Committee’s report on the intelligence and assessments around Iraqi Weapons of Mass Destruction led to significant criticism of the Committee. The Hutton report published many of the documents which the Intelligence and Security Committee had examined but decided not to publish and the Butler report highlighted information about MI6 withdrawing intelligence which the Intelligence and Security Committee had failed to examine in their report.¹⁶⁵ Furthermore, it later emerged that the Committee had not been provided with all the relevant JIC assessments by the Government despite assurances to the contrary. The Intelligence and Security Committee later concluded that this had been a mistake rather than a deliberate attempt to mislead the Committee but still expressing considerable concern that such a mistake could take place. One academic described this as a “masterful understatement” given the nature of the inquiry.¹⁶⁶ On two occasions the Committee has been required to return to issues that were subject to earlier inquiries. The first occasion was the 7/7 bombings. It emerged that despite the Committee’s earlier reassurance that that the security service had not sought to investigate two of the bombers when they had appeared on the periphery of another investigation, MI5 had had them

¹⁶³ <http://www.legislation.gov.uk/ukpga/2013/18/part/1/crossheading/oversight-by-the-intelligence-and-security-committee-of-parliament/enacted>

¹⁶⁴ <http://www.legislation.gov.uk/ukpga/2013/18/schedule/1/enacted>

¹⁶⁵ The UK’s Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, Pp 192-194. Also, “A Very British Institution”: The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom, Mark Phythian, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, p707

¹⁶⁶ The UK’s Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, , P193

under surveillance for more than a year. The second is that of rendition where the Committee's inquiry cleared the security service of collusion in torture only for a High Court Judge to undermine this assertion in his judgement on the Binyam Mohamed case which we refer to later in paragraph 34 of Annex B. Following the decision to conclude the Gibson inquiry which was examining "whether Britain was implicated in the improper treatment of detainees, held by other countries, that may have occurred in the aftermath of 9/11"¹⁶⁷ the Intelligence and Security Committee have now been asked by the Government to

inquire into the themes and issues that Sir Peter [Gibson] has raised, take further evidence, and report to the Government and to Parliament on the outcome of its inquiry.¹⁶⁸

Professor Sir David Ormond admitted the information given to parliamentarians before the vote on the second Iraq war was inaccurate.

Paul Flynn: You accepted the likely existence of weapons of mass destruction, did you not?

Professor Sir David Omand: Yes.

Paul Flynn: And you were wrong.

Professor Sir David Omand: Yes. Well, we believe we were wrong.¹⁶⁹

150. Both the shadow Justice Minister and the Chairman of the APPG on Rendition have questioned the ability of the Committee to do so.¹⁷⁰ The Joint Committee on Human Rights has criticised the Intelligence and Security Committee noting that

The missing element, which the ISC has failed to provide, is proper ministerial accountability to Parliament for the activities of the Security Services. In our view, this can be achieved without comprising individual operations if the political will exists to provide more detailed information to Parliament about the policy framework, expenditure and activities of the relevant agencies. The current situation, in which Ministers refuse to answer general questions about the Security Services, and the Director General of MI5 will answer questions from the press but not from parliamentarians, is simply unacceptable.¹⁷¹

We invited Sir Malcolm Rifkind, as Chair of the Intelligence and Security Committee to give evidence to us on its work. He declined to do so.

¹⁶⁷ HC Deb, 6 July 2010: [Col. 176](#)

¹⁶⁸ HC Deb, 19 Dec 2013: [Col. 915](#)

¹⁶⁹ Q592

¹⁷⁰ HC Deb, 19 Dec 2013: [Col. 917: 921](#)

¹⁷¹ Joint Committee on Human Rights, Twenty-third Report of Session 2008–09, [Allegations of UK Complicity in Torture](#), HC 230, para 65

151. We asked the Immigration and Security Minister why the relevant departmental select committees were not able to scrutinise the work of the services, he told us that

I believe that we have very robust system and one of the strongest systems in the world to provide that level of oversight. I think the handling of sensitive material is one that does need to be conducted with care, how we can ensure that information that is secret remains secret and particularly how it could be to our disadvantage if it came into the hands of those who have malign intent against this country.¹⁷²

152. We undertook a comparison between the UK and US systems of oversight.

	Parliament	House	Senate
Number of members	9	21	15
Number of staff	8 and one part-time investigator. ¹⁷³	36 ¹⁷⁴	45 ¹⁷⁵
Membership appointed by	Parliament, following nomination by the Prime Minister who must consult with the Leader of the Opposition	Party leadership	Party leadership
Members vetted prior to appointment ¹⁷⁶	No	No (but all members of the House of Representatives are automatically given access to classified material upon their election)	No (but all members of the Senate are automatically given access to classified material upon their election)
Confirmation of appointment of key officials ¹⁷⁷	No	No	Yes
Access to classified material	Access can be refused by Secretary of State ¹⁷⁸	Total Access	Total Access
Can reveal classified material without permission from the executive	No	No	Yes, with the approval of the full Senate
Prior notification	No legal duty (although the ISC has informed agencies that it would expect to be 'properly and promptly informed' of their activities. ¹⁷⁹)	Yes (except in times of emergency when the agency can delay reporting for up to two days)	Yes (except in times of emergency when the agency can delay reporting for up to two days)

¹⁷² Q884

¹⁷³ [CTE0042](#). Letter from Sir Malcolm Rifkind MP. He notes that there are four full-time vacancies and three part-time vacancies on the staff of the Committee.

¹⁷⁴ http://www.legistorm.com/office/House_Permanent_Select_Committee_on_Intelligence/1538/187.html

¹⁷⁵ http://www.legistorm.com/office/Senate_Select_Committee_on_Intelligence/687/189.html

¹⁷⁶ Parliamentary and External Oversight of Intelligence Services, Hans Born, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P174

¹⁷⁷ *Ibid.*, p183

¹⁷⁸ Schedule 1, Part 4 (2) (b)

¹⁷⁹ Parliamentary and External Oversight of Intelligence Services, Hans Born, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P185

Produce annual reports on the work of the Committee	Yes	Yes	Yes
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153. In 2007, researchers wrote that robust accountability by a legislature relied on three factors – authority, ability and attitude.¹⁸⁰ There are two different approaches to legislative oversight which are discussed in academic literature – the ‘police-patrol’ and the ‘fire-alarm’ model. The police-patrol model is defined as the legislature examining a sample of activities carried out by an executive agency, the idea being that it will detect any activity which contravenes the legislature’s expectation of practices and that such surveillance will discourage an agency from engaging in actions which would result in disapproval or action on the part of the legislature. The fire-alarm model is a more reactive model whereby the legislature will be alerted to activities which contravene the legislature’s (and the public’s) expectations of practice by interest groups, the media or even their electorate.¹⁸¹

154. Whilst the US and UK have similar ‘police-patrol’ bodies within their legislature, their ‘fire-alarm’ bodies differ. In US, responses to perceived failures within the intelligence community have tended to be presidential or congressional commissions. In contrast, in the UK, the response in recent times has been to set up an inquiry, usually led by a senior judicial figure (which is therefore outside of the legislature). However these two approaches appear to be converging – the UK’s Commission on Banking Standards was similar in its nature to a Congressional Commission whereas the presidentially-ordered review into intelligence and communications technologies could be seen as being similar to an independent inquiry, such as the Butler Committee.

155. It has been suggested that oversight committees in both the US and the UK were aware of the programmes highlighted by Edward Snowden’s leaks to various media outlets.¹⁸² Following those leaks there are a number of inquiries being held in various legislatures on the issue of balancing privacy with security. In the US, the reaction of Congressional Committees has been to hold inquiries with Judiciary Committees in both the House and the Senate holding inquiries as well as the Intelligence Committees. It is obvious that the latitude afforded to congressional committees to examine intelligence matters by the executive is perhaps the key difference between the US system and the UK system where the Government consistently refuses to allow committees other than the ISC to ask questions on the work of the security and intelligence agencies. Given that a number of important issues have been raised and debated as part of the work of the Judiciary Committees, it is perhaps telling that the debate has been more charged in the US where more representatives are able to scrutinise the work of such agencies.

¹⁸⁰ Intelligence Services: Strengthening Democratic Accountability, Hans Born and Fairlie Jensen, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P266

¹⁸¹ Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who’s Watching the Spies?: Establishing Intelligence Service Accountability*. Born, Johnson, and Leigh (eds), 2005, Pp59-60

¹⁸² <http://www.iiss.org/en/politics%20and%20strategy/blogsections/2013-98d0/november-47b6/snowden-9dd1>

156. A number of the witnesses to this inquiry took the opportunity to highlight the improvements to the Intelligence and Security Committee which were contained within the Justice and Security Act 2013. There were suggestions that the committee ought not to be judged on its previous failures but rather time ought to be given to see how it worked under the new regime. Other witnesses felt that there was still room for improvement. These improvements include:

- Election of the membership of the Committee by the House of Commons
- The Chair of the Committee being a member of the Opposition and not a former Minister with responsibility for any of the agencies
- Ensuring that the Committee have access to relevant expertise (for instance in terms of the technological aspect of the work carried out by the security and intelligence agencies)
- Allowing other parliamentary Committees to scrutinise the work of the security and intelligence agencies.¹⁸³

157. We do not believe the current system of oversight is effective and we have concerns that the weak nature of that system has an impact upon the credibility of the agencies accountability, and to the credibility of Parliament itself. The scrutiny of the work of the security and intelligence agencies should be not the exclusive preserve of the Intelligence and Security Committee. Whilst we recognise the importance of limiting the access to documents of a confidential nature, we believe that as the relevant departmental select committee, we ought to be able to take oral evidence from the head of the security service. Engagement with elected representatives is not, in itself, a danger to national security and to continue to insist so is hyperbole. There are questions about the accuracy of information provided to the House by the security and intelligence agencies in the past, particularly in 2003. As future decisions on warfare look likely to be determined by votes of the members of the House of Commons, there is heightened importance in ensuring that the House is accurately informed in future.

158. Furthermore we recommend that the Commons membership of the Intelligence and Security Committee should be elected like other select committees and that the Chair, who should always be a member of the Commons, ought to be subject to election of the whole House, as is the case for Select Committees. We further recommend that the Chair should always be a member of the largest opposition party.

Judicial and expert oversight

159. We took evidence from two of the other three offices responsible for oversight—the Commissioner for the Interception of Communications and the Commissioner for the Intelligence Services. We did not take evidence from the Investigatory Powers Tribunal. However, we wish to take this opportunity to note that in its latest annual report, the

¹⁸³ Q329; 794

Investigatory Powers Tribunal has failed to disclose how many cases were decided in favour of the complainant. The 2010 (inaugural) annual report of the Investigatory Powers Tribunal was a forty page document. The 2011 report was a three page statistical release. The 2012 annual report was a two paragraph new story on its website.

160. Nick Pickles told us that the Investigatory Powers Tribunal was a weak method of oversight and that given the introduction of closed material proceedings following the Justice and Security Act 2013, it was also unnecessary.¹⁸⁴ The statistics which have been produced by the Investigatory Powers Tribunal indicate that out of 1468 the Tribunal has received it has decided in the favour of ten complainants. None of the ten successful complaints were made against the security service. In an interview with BBC Radio 4 in November 2013, Mr Justice Burton, President of the Investigatory Powers Tribunal explained the process.

What we do when receive a complaint is that we make inquiries of the respondent who are suspected or suggested to have taken part in this complaint and we then obtain their answers and we can and do inspect the files. There is nothing we cannot see.

When Mr Justice Burton was asked how he could be sure that everything was provided to the Investigatory Powers Tribunal, he replied that it was never possible to be completely sure but that the agencies were under a statutory duty to comply with the Tribunal.¹⁸⁵

161. The BBC Radio 4 interview with Mr Justice Burton was the first time a member of the Tribunal had spoken to media since the Tribunal had been set up. When questioned as to his motivation, Mr Justice Burton explained that he was

Very anxious that people should know about our tribunal and that we shouldn't be considered to be something hole-in-the-corner and hidden away. ... It's equally important to have the trust of the applicants. And of course, particularly where it is not often that the applicants are successful we do want to make it plain that we are very conscious of the tension of natural justice and natural security and very anxious, so far as we can, to operate our procedures fairly.¹⁸⁶

162. The Investigatory Powers Tribunal is the only body which can investigate individual complaints against the security and intelligence agencies and actions taken under the Regulation of Investigatory Powers Act. It ought to command public confidence in its actions. For there to be public confidence there must first be public understanding of the work of the Tribunal. We recommend that the if the Investigatory Powers Tribunal are unwilling to voluntarily produce a detailed annual report on their work, that legislation be amended so that they are required to do so. Such an annual report should, at the very least contain the number of cases it has received and the

¹⁸⁴ Q816

¹⁸⁵ <http://www.bbc.co.uk/programmes/b03gbs6n>

¹⁸⁶ <http://www.bbc.co.uk/programmes/b03gbs6n>

outcome of cases determined in that year with comparable data for the previous four years. We also recommend that the data be broken down to show which agency the complaint was against.

163. The information given to us by the Commissioners indicate that they examine a small number of warrants under the current oversight system. The Intelligence Services Commissioner told us that in 2012 he had examined 8.5% of warrants.¹⁸⁷ The Interception of Communications Commissioner told us that he had examined between 5% and 10% of the applications. He was not able to be more specific as he did not know how many applications there were.¹⁸⁸ When we asked the Intelligence Services Commissioner what percentage of consolidated guidance or disciplinary cases he examined, he was unable to tell us. Despite agreeing to inform us in writing, he has subsequently refused to do so and instead told us that he intends to 'try' and publish the figures in his annual report.¹⁸⁹

164. We also have concerns regarding the Intelligence Services Commissioner's description of his investigation in to the allegations that GCHQ had acted illegally. In giving evidence to us, he told us that the extent of his investigation was a conversation with the second head of GCHQ. When we asked him if he'd undertaken any further investigatory work to satisfy himself that the agency had not been engaging in illegal practices, he replied that his investigatory work had not gone beyond that discussion.¹⁹⁰ For the purposes of clarity we have reproduced the entire exchange below.

Q734 Chair: You went down to GCHQ.

Sir Mark Waller: Yes.

Q735 Chair: You went to see who there?

Sir Mark Waller: I saw the second head of the agency, in fact.

Q736 Chair: How did you satisfy yourself? It seems, from your comment, that what you did was you had a discussion with them, you heard what they had to say and you have accepted what they had to say.

Sir Mark Waller: Certainly.

Chair: Is that it?

Sir Mark Waller: Certainly.

Chair: Just a discussion?

Sir Mark Waller: Certainly.

Chair: Nothing else?

¹⁸⁷ [CTE0037](#)

¹⁸⁸ Q653-5

¹⁸⁹ [CTE0037](#)

¹⁹⁰ Q735-6

Sir Mark Waller: Certainly.

Q737 Chair: That is the way you were satisfied that there was no circumventing on UK law. You went to see them. You sat round a table. You had a discussion—

Sir Mark Waller: You have to remember that I had done a year and a half's inspection. I have a very good idea as to what the ethos of this agency is.

Chair: Of course.

Because of our surprise that the Commissioner had been prepared to make a public statement in support of the agency without first undertaking a thorough investigation we later returned to the point of the fact that this was based on a single conversation. At no point during either exchange did the Intelligence Services Commissioner clarify that his statement was as a result of an investigation that went beyond the previously mentioned discussion.¹⁹¹ Given that the questioning was very specific, we are unable to understand why there should have been any confusion concerning the nature of the question. However, in written evidence to us the Intelligence Services Commissioner later clarified that

I realise from the transcript that it appears I only saw the second in command at GCHQ to make my assessment. In fact I met with a number of senior officials who made themselves available to me including a GCHQ lawyer. I was also able to question Iain Lobban the head of GCHQ in order to come to the conclusion in my 2012 Report.¹⁹²

165. In regards to the work of the two Commissioners, we have some sympathy with the assertion made by the Rt Hon. David Davis MP when he told us that the Commissioners are good people doing impossible jobs.¹⁹³ However, we also note that both of the Commissioner roles are part-time positions. The Interception of Communication Commissioner has assured us that he has enough resources with his team of investigators having been increased to nine last year.¹⁹⁴ The Intelligence Services Commissioner only has a personal assistant but he maintained that the strength of his role was that he alone was responsible for overseeing the warrants.¹⁹⁵ Both Commissioners felt that an Inspector-General would be unsuitable to undertake the work that they currently carried out. The Interception of Communications Commissioner thought that it would lead to a dilution of personal responsibility and the Intelligence Services Commissioner believed that it would create an “unnecessary bureaucracy.”¹⁹⁶

¹⁹¹ Q743-4

¹⁹² [CTE0037](#)

¹⁹³ Q827

¹⁹⁴ Q649

¹⁹⁵ Q724

¹⁹⁶ Q677; 757

166. It is unacceptable that there is so much confusion around the work of the Intelligence Services Commissioner and the Interception of Communications Commissioner. We recommend that as a matter of urgency data is collected on how many applications there were under the Regulation of Investigatory Powers Act and how many people were subsequently subject to an application. Furthermore, the fact that the Intelligence Services Commissioner cannot tell us what percentage of consolidated guidance cases or disciplinary proceedings he has examined is concerning.

167. We have serious doubts that either the Interception of Communications Commissioner role or the Intelligence Services Commissioner role should be part-time. We are also concerned that the extent of the Intelligence Services Commissioner's staff is one personal assistant. The fact that less than 10% of warrants which allow intrusion in to the private lives of individuals are examined is concerning—we believe this figure ought to be at least 50%, if not higher. We recommend that the Commissioners are made full-time positions and that their resources are increased to allow them to examine half of the requests for information.

168. All parts of the oversight system need to do more to improve public confidence in their work. We recommend that each of the Commissioners and the Investigatory Powers Tribunal develop an outreach strategy which ought to be published as part of their annual reports along with details of how they have tried to fulfil the objective of improving knowledge of their work.

169. Our decision to examine the oversight system following the theft of a number of documents from the National Security Agency by Edward Snowden. The documents were stolen in order to publicise mass surveillance programmes run by a number of national intelligence agencies. The documents were sent to several journalists and subsequently press reports detailing the programmes have been published in a number of countries. There have been criticisms of the newspapers who have published details of the programmes but Alan Rusbridger, Editor of *The Guardian* newspaper responded to those criticisms by noting that

the alternative to having the newspapers—and you can criminalise newspapers all you like and try to take them out of this—the next leak or the next Edward Snowden or the next Chelsea Manning will not go to newspapers. They will dump the stuff on the internet.¹⁹⁷

One of the reasons that Edward Snowden has cited for releasing the documents is that he believes that the oversight of security and intelligence agencies is not effective.¹⁹⁸ It is important to note that when we asked British civil servants—the National Security Adviser and the head of MI5—to give evidence to us they refused. In contrast, Mr Rusbridger came before us and provided open and transparent evidence.

¹⁹⁷ Q309

¹⁹⁸ <http://www.europarl.europa.eu/document/activities/cont/201403/20140307ATT80674/20140307ATT80674EN.pdf>

170. The security and intelligence agencies are staffed by brave men and women who in many cases risk their lives to protect this country. They deserve our gratitude and they deserve to be honoured for their work. The best way to honour them is by ensuring that there are no questions about their integrity and, in order to prove this, there must be adequate scrutiny of their actions. The current system of oversight belongs to a pre-internet age, a time when a person's word was accepted without question. What is needed is a scrutiny system for the 21st century, to ensure that sophisticated security and intelligence agencies can get on with the job with the full confidence of the public.

Regulation of Investigatory Powers Act 2000

171. The Investigatory Powers Tribunal, The Intelligence Services Commissioner and the Interception of Communications Commissioner were all created under the Regulation of Investigatory Powers Act 2000 (RIPA). The Act provides the legislative framework for the use of methods of surveillance and information-gathering used in efforts to prevent crime, including terrorism. RIPA makes provision for:

- The interception of communications
- The acquisition and disclosure of data relating to communications
- The carrying out of surveillance
- The use of covert human intelligence sources
- Access to electronic data protected by encryption or passwords
- The appointment of Commissioners and the establishment of a tribunal with jurisdiction to oversee these issues.¹⁹⁹

172. There are a number of criticisms of the Regulation of Investigatory Powers Act including the number of bodies which are authorised to access private information,²⁰⁰ its complexity and whether its provisions are appropriate given the advancements in technology since it was drafted. This is not the first time in this Parliament which we have had cause to highlight inadequacies with the Act. In our 2011 report on the Unauthorised tapping into or hacking of mobile communications we commented on the confusion concerning the interpretation of Section 2 of the Act and the impact which that had had on subsequent decisions to investigate and prosecute allegations of unlawful behaviour on the part of the media.²⁰¹ In 2006, then-President of the Investigatory Powers Tribunal Lord Justice Mummery acknowledged that in the experience of the tribunal the Act had been “a complex and difficult piece of legislation.”²⁰² The Interception of Communications Commissioner acknowledged that there was a case for simplifying the Act although he

¹⁹⁹ Home Affairs Committee, Fifth Report of Session 2007–08, [A Surveillance Society?](#), HC 58-I, para 312

²⁰⁰ *Ibid.*, para 317

²⁰¹ Home Affairs Committee, Thirteenth Report of Session 2010–12, [Unauthorised tapping into or hacking of mobile communications](#), HC 907, para 22–35

²⁰² *C v the Police and Secretary of State for the Home Department (IPT/03/32/H*, 14 November 2006), para 22.

didn't consider it a priority.²⁰³ The Independent Reviewer of Terrorism Legislation told us that

certainly one can make the case that the Regulation of Investigatory Powers Act, although only 12 years old, has already been overtaken by developments in technology and I could well understand the argument for revisiting some of the powers in that Act.²⁰⁴

The Data Retention Directive and Section 94 of the Telecommunications Act 1984.

173. A number of our witnesses have highlighted the importance of the collection of data communications in regards to criminal investigations. The Home Secretary has informed us that

Access to communications data is an important tool for our law enforcement and security services. It is the case that communications data have obviously been used in—I think—every major counter-terrorism piece of work over the past decade and well over 90% of organised crime cases. This is very important. It is about us being able to identify people who would do us harm and an engage in serious and organised criminality.²⁰⁵

The Interception of Communications Commissioner has recently warned that

I believe, beyond question that technological developments relating to the internet may make the public authorities interception and communications data legitimate activities in the public interest more difficult. Recent commentary has tended towards confining the public authorities interception and communications data powers and activities. There is a legitimate policy question whether those capabilities might not need to be enhanced in the national interest. Present public sentiment might not favour that, and changes would obviously need to be very carefully weighed with interests of privacy. But perhaps that policy question should not be completely overlooked.²⁰⁶

This is a view shared by Charles Farr²⁰⁷ and in the Government's annual review of the CONTEST strategy, it was noted that existing legislation is no longer sufficient to ensure that it is always possible for law enforcement and the security and intelligence agencies to obtain domestic communications data from communications companies.²⁰⁸ Sir David Omand, former Director of GCHQ, has argued that "Democratic legitimacy demands that where new methods of intelligence gathering and use are to be introduced they should be

²⁰³ Q661

²⁰⁴ Q117

²⁰⁵ Q329, HC 235

²⁰⁶ [2013 Annual Report of the Interception of Communications Commissioner](#), HC 1184, April 2014, p56.

²⁰⁷ Q204

²⁰⁸ [CONTEST Annual Report 2013](#), Home Office, April 2014, Cm 8848

on a firm legal basis and rest on parliamentary and public understanding of what is involved.”²⁰⁹ He told the Committee that he did not believe that had been achieved.²¹⁰ The recent ruling by the European Court of Justice, striking down the Data Retention Directive which required telecoms companies to store the communications data of EU citizens for up to two years, is likely to further increase debate around whether legislation is sufficient. When we asked the Home Secretary what impact the ruling had on the provision of communications data, she stated that work was currently being undertaken to assess the implications of the ruling.²¹¹

174. It is essential that the legal position be resolved clearly and promptly. It is currently unclear whether CSPs are obliged to store communications data as they were previously, or indeed if they are allowed to, because of the Data Protection Act. It is also unclear if the Home Office will continue to pay CSPs for their work on communications data.

175. The report by the Joint Committee which examined the draft Data Communications bill in 2012 highlighted that not all communications data collection is undertaken under the Regulation of Investigatory Powers Act 2000. The Committee noted that

Section 45 of the Telecommunications Act 1984 provided that the disclosure of communications data by a person running a public telecommunications system was prima facie an offence. It was, however, permissible to make a disclosure for the prevention or detection of crime or for the purposes of any criminal proceedings, in the interests of national security or in pursuance of a court order. Section 94 of the 1984 Act enables the Secretary of State to issue directions to telecommunications operators in the interests of national security.²¹²

However, unlike the provisions in the Regulation of Investigatory Powers Act under which communications data can be obtained, there is no statutory oversight or review of the use of Section 94 of the Telecommunications Act 1984.²¹³ When we asked the Minister for Immigration and Security about the use of Section 94, he told us that it was under the remit of the Intelligence and Security Committee. He also stated that

Directions under Section 94 can only be issued by a Secretary of State where he/she considers it is necessary to do so in the interests of national security. The legislation allows for such directions to be kept secret. It may be necessary to keep a direction secret because revealing its existence would damage national security.²¹⁴

²⁰⁹ Sir David Omand, Jamie Bartlett, Carl Miller, #Intelligence, Demos, April 2012, p9

²¹⁰ Q586

²¹¹ Home Affairs Committee, *The work of the Home Secretary*, 8 April 2014, HC 235, Q330

²¹² Joint Committee on the Draft Communications Data Bill, *Draft Communications Data Bill*, HC 479

²¹³ Q745

²¹⁴ [CTE0041](#)

In fact section 94 of the Telecommunications Act is much broader than only national security. It states that the directions given by the Secretary of State must be 'in the interests of national security or relations with the government of a country or territory outside the United Kingdom'. This latter point about relations with other countries makes it a much broader power, which could be implemented on any grounds following a request from any other country for any reason. The grounds for secrecy are even broader still, adding concerns about 'the commercial interests of any person' to exemptions for national security and foreign relations. We are disappointed that the Minister left out these important aspects in his response, as it gives a very different perspective on the breadth of the powers. Furthermore we understand that the Intelligence and Security Committee have not in fact looked at the use of this Section and so there is currently no scrutiny of its use by any of the relevant commissioners or Parliamentarians.

176. We note that there have been a number of consultations and reviews of the Regulation of the Investigatory Powers Act since it was passed with amendments to the Act which have both increased and restricted its scope.²¹⁵ RIPA is a very unclear piece of legislation. In the Interception of Communications Commissioner's 2013 report he said

I have very considerable sympathy with those who are hazy about the details of the legislation. RIPA 2000 is a difficult statute to understand.²¹⁶

He went on to say that there may be significant institutional overuse of the powers to access communications data under Chapter II of RIPA.²¹⁷ He also highlighted the unreliability and inadequacy of the statistical information provided for RIPA communications data requests.²¹⁸ Sir David Omand, former Director of GCHQ, described sections of RIPA as a little obscure and said "I do not think the ordinary person or Member of Parliament would be able to follow the Act without a lawyer."²¹⁹ Furthermore several witnesses have noted that there is a current requirement for improved communications data legislation.²²⁰ The ambiguities mentioned here lead us to believe that the Regulation of Investigatory Powers Act ought to be updated.

177. Given the criticism which the Regulation of the Investigatory Powers Act is subject to, we believe that the legislation is in need of review. We recommend that a Joint Committee of both Houses of Parliament should be appointed in order to hold an inquiry with the ability to take evidence on the Act with a view to updating it. This inquiry would aim to bring the Regulation of Investigatory Powers Act up to date with modern technology, reduce the complexity (and associated difficulty in the use of) the legislation, strengthen the statistical and transparency requirements and improve the oversight functions as are set out in the current Act. We recommend that the inquiry

²¹⁵ Both through secondary legislation and the Protection of Freedoms Act 2012

²¹⁶ [2013 Annual Report of the Interception of Communications Commissioner](#), HC 1184, April 2014, p1

²¹⁷ *Ibid.*, p25

²¹⁸ *Ibid.*, p24

²¹⁹ Q589

²²⁰ Q204; 687

address the areas of concern raised with us concerning communications data and the oversight of Section 94 of the Telecommunications Act 1984.

Annex A: Case chronology of Mohammed Ahmed Mohamed

The Home Office have provided us with a chronology of their involvement with Mr Mohamed.

- On 14 January 2011 Mr Mohamed was arrested and interviewed in Burao, Somaliland with two other individuals. All three were accused of conspiracy to commit offences against national security. But Somaliland authorities did not prosecute any of the three because of insufficient admissible evidence. One individual was released locally; Mr Mohamed and the third individual, a British national, were subsequently deported to the UK.
- On 13 March 2011 Mr Mohamed was deported back to the UK.
- On 14 March 2011 Mr Mohamed arrived in the UK. He was detained and examined under Schedule 7 of the Terrorism Act 2000. Following that he was served with a Control Order and relocated to a town in the east of England.
- On 12 October 2011 Mr Mohamed was arrested, and subsequently charged and remanded in custody in relation to 14 breaches of his control order:
 - 18 August – failed to call monitoring company as required.
 - 27 August – failed to report to police station as required.
 - 7 September – failed to call monitoring company as required.
 - 11 September – failed to report to police station as required.
 - 15 September – failed to call monitoring company as required.
 - 23 September – returned late for curfew.
 - 28 September – met a person without prior permission.
 - 28 September – possession of unauthorised mobile phone.
 - 29 September – met a person without prior permission.
 - 29 September – went outside his geographical boundary.
 - 29 September – entered an internet cafe without permission.
 - 30 September – failed to report to police station as required.
 - 9 October – failed to call monitoring company as required.
 - 11 October 2011 – unauthorised possession of an MP3 player.

- On 21 February 2012 Mr Mohamed was released on bail by the court after successfully arguing – amongst other reasons – that his trial for breaches should be delayed behind the High Court review of his control order. The CPS opposed bail but the Judge decided that, given the length of time Mr Mohamed had spent on remand, bail should be granted. A TPIM notice was served on Mr Mohamed the same day and he was moved to Home Office provided accommodation in London.
- In July 2012 the High Court heard the review of the lawfulness of the Control Order and TPIM.
- On 19 October 2012 Lord Justice Lloyd Jones handed down a judgment, upholding both the Control Order and TPIM.
- On 29 December 2012 Mr Mohamed was arrested, and subsequently charged and remanded in custody in relation to six breaches of his TPIM between 22 and 28 December 2013 (failing to report to the police station or reporting late).
- On 19 April 2013 Mr Mohamed was released on bail by the court (again, the CPS opposed bail). The High Court had upheld the control order and TPIM in a judgment handed down on 19 October 2012, but Mr Mohamed argued that his trial for breach should be delayed behind his appeal against the High Court's judgment.
- On 25 July 2013 Mr Mohamed was arrested, and subsequently charged and remanded in custody in relation to one breach of his TPIM – a 'tag tamper' which occurred on 16 May 2013.
- On 6 August 2013 – Mr Mohamed was released on bail by the court (again, the CPS opposed bail). He continued to argue that his trial for breaches should be delayed behind his appeal against the High Court's judgment upholding the control order and TPIM.
- On 1 November 2013 the CPS discontinued the prosecution for the alleged 'tag tamper' of 16 May 2013 because challenges to the reliability of the forensic evidence meant that, in their view, there was no realistic prospect of a conviction. Later that day Mr Mohamed absconded. His tag sent a tamper alert to the monitoring company, which was relayed by an automatic email to the Home Office and police. This was followed up by telephone between the monitoring company, Home Office and police.
- The police immediately launched an intensive operation to locate Mohamed. Ports and borders were notified with his photograph and details circulated nationally and internationally.
- On 2 November 2013 the Court, on the application of the Home Secretary, lifted the anonymity order in place in relation to Mohamed.
- On 3 November 2013 the police appealed for public's help in locating Mohamed.

Annex B: Comparison of the UK and US oversight systems of the security and intelligence agencies

1. Oversight of the Security and Intelligence Services means monitoring their efficiency and their propriety.²²¹ Examining efficiency would mean scrutinising a Service's ability to carry out its remit and to provide value for money. Examining propriety would require judgement on whether the Service had acted in accordance with the law and its remit in both its objectives and its activities. Some argue propriety could also include the examination of a Service's behaviour in accordance with the ethical or political norms of the society in which it was based, such as freedom of speech, human rights and privacy.²²²

2. A 2007 report on the democratic control of the security services by the Venice Commission noted the different types of accountability which can exist:

As far as security agencies are concerned, there can be said to be different types of "accountability", to the executive, judiciary, parliament and independent bodies. One can also see the monitoring role of civil society (NGOs, think tanks etc.) and the media as a form of accountability. In the delicate area of alleged wrongdoing by government or security personnel, the attitudes to investigative reporting held by the press and the public, and the degree of obstruction from government and administration may well be as important as any formal safeguards which may exist.²²³

Legislative oversight

3. The most common method of oversight appears to be a committee of the legislature, although the use of external review committees is also prevalent. Amongst legislative committees which oversee the security and intelligence agencies there are a number of variations in:

- the powers;
- the size: and,

²²¹ Controlling and Overseeing Intelligence Services in Democratic States, Marina Caparini, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007 P 9

²²² Controlling and Overseeing Intelligence Services in Democratic States, Marina Caparini, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, Pg 17; Balancing Operational Efficiency and Democratic Legitimacy, Hans Born and Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*. Born, Johnson, and Leigh (eds), 2005, Pp 230-232

²²³ European Commission For Democracy through Law, (Venice Commission) Report on the Democratic Oversight of The Security Services, 2007, P 16

- the body responsible for nominating and/or approving the membership of the Committee. All of these can have an impact on the independence and the effectiveness of such committees.

4. The two legislatures which are the focus of this note (the US and the UK) both have legislative committees. In the US, South Africa and Argentina (amongst others), the oversight committees examine the policy, administrations, operations and legality of the intelligence services. In the UK, although the remit has recently changed to include operations (as well as policy and administration), the legality of the work carried out by the Services is a matter for other bodies—the Commissioners and the Investigatory Powers Tribunal.²²⁴

5. There are a range of benefits and potential failings of legislative committees whose role is to oversee the security and intelligence agencies. The benefits include the legislature's ability to scrutinise abuse by either the agencies or the executive in their use of intelligence provided by the agencies. Legislators may also have budgetary approval for the security and intelligence agencies which will aid in the scrutiny of their activities.²²⁵

6. The shortcomings of legislative committees include:

- the potential for political deference;
- the over-identification of the members with the security and intelligence services: and,
- the danger of the leaking of confidential information provided to the committee.

7. However, leaks from oversight committees have been rare if non-existent in many countries. One exception to this trend was in the United States under the Bush administration where there were leaks from the bureaucracy, Congress and even indeed the administration. A potential reason given for this was the overly excessive secrecy of the Bush administration—it is suggested that leaks are often seen as a necessary “corrective when there is too much secrecy and the public interest is not being served by a high degree of secrecy.”²²⁶

8. It is sometimes suggested that as well as scrutinising the activities of the security and intelligence agencies, oversight committees should also act as public defenders of those agencies. One former director of central intelligence (a position now known by the title of director of national intelligence) told a Canadian Committee that when congressional oversight

was first introduced, we fought it all the way. But now we wouldn't do without it. When the Agency is falsely maligned by the media there's

²²⁴ Parliamentary and External Oversight of Intelligence Services, Hans Born, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, Pg 169,

²²⁵ Parliamentary and External Oversight of Intelligence Services, Hans Born, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P 164

²²⁶ Controlling and Overseeing Intelligence Services in Democratic States, Marina Caparini, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P 20

someone to call who can put the record straight. And when the Administration doesn't respond to budgetary requests, there are other folks on the Hill who understand our needs and can go to bat for us.²²⁷

9. The European Commission for Democracy Through Law (also known as the Venice Commission) Report on the democratic oversight of the Security Services found that the executive's view of the role of the legislative committee will have a huge impact on its ability to scrutinise the efficiency, effectiveness and lawfulness of the security and intelligence agencies. In the vast majority of cases, the oversight committee will rely on the executive and the agencies to provide information which will aid the committee in its scrutiny.²²⁸ In a number of cases, the membership is nominated or chosen by the executive and in some cases the chairmanship or the party affiliation of the chairman is decided by the executive.²²⁹ The Venice Commission found that

The detention and interrogation of "enemy combatants" in Afghanistan and at Guantanamo Bay, extraordinary renditions, alleged secret detention centres, torture or the use of information obtained by torture in third countries have led to a growing number of inquiries and reports by national and international bodies. ... National systems of oversight or accountability were designed for a different era and to guard against different dangers of abuse (for instance, interference in domestic politics or civil society by the agencies). They do not address this concern.²³⁰

Expert oversight

10. In a number of countries, there are expert panels which scrutinise the security and intelligence agencies. The two best examples of these are

- the Canadian Security Intelligence Review Committee (SIRC) which supervises the Canadian Security Intelligence Service (CSIS)
- the Norwegian Committee for Oversight of the Intelligence, Surveillance and Security Services.

11. The Venice Commission highlighted the potential benefits of an expert panel

An expert body allows for greater expertise and time in the oversight of security and intelligence services and avoids the risks of political division and grand-standing to which parliamentary committees can be prone. The body may be full or part-time, but even if it is part-time, the supervision exerted is likely to be more continuous than that exercised by a parliamentary body, the

²²⁷ Canada's Long Road from Model Law to Effective Oversight of Security and Intelligence, Stuart Farson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 114

²²⁸ European Commission For Democracy through Law, (Venice Commission) Report on the Democratic Oversight of The Security Services, 2007, P 18

²²⁹ *Ibid.*, Pp 37-38

²³⁰ *Ibid.*, P 25

members of which have many other political interests and responsibilities. The members' tenure can be made longer than the standard electoral period, something which is particularly important as intelligence has, as already mentioned, a relatively long "learning curve".²³¹

However, the Commission also noted that in order for it to have any legitimacy, the expert panel ought to be created under statute as it is necessary to demonstrate that the legislature is in agreement that scrutiny is better carried out by an independent body. Without legislative support, an expert panel is unlikely to reassure elected representatives or their constituents that they are effective in their scrutiny activity.²³²

12. Another form of expert scrutiny is the use of Inspectors General which in many countries review efficiency, effectiveness and the legality of the work of the security and intelligence agencies. Although an individual will be nominated as the Inspector General, they will have an office with staff who assist them in their investigations. Australia and New Zealand both have an Inspector General who oversees their security and intelligence agencies. In the US, where the system originated, there exists a number of Inspectors General—each of the agencies which are in executive "establishments" or "designated federal entities" have statutory inspectors general under the Inspector General Act of 1978, as amended and there is also an Inspector General for the CIA (under its own statute) and another for the whole intelligence community (also under separate legislation).²³³

13. The Venice Commission summarised the benefits of an Inspector General

the Inspector-General may review the Agency's activities, investigate complaints, initiate inspections, audits and investigations on his or her own initiative, and issue recommendations. ... The Inspector-General's powers include questioning agency employees and obtaining access to agency premises and data. The function of an Inspector-General may be not only to strengthen executive control but serve as the responsible Minister's conscience. An Inspector-General can also, as noted above, to report to, or in different ways assist, parliamentary or external expert bodies.²³⁴

14. However, Inspectors General will more usually be a method of executive accountability (rather than legislative) meaning that they report to the Government although there are exceptions to this—the South African Inspector General reports to Parliament. A number of other Inspectors General will have a relationship with the legislature despite reporting to the executive, several of the US Inspectors General report to Congress and the Australian Inspector General has an "informal working relationship with parliamentary bodies."²³⁵

²³¹ European Commission For Democracy through Law, (Venice Commission) Report on the Democratic Oversight of The Security Services, 2007, P 48

²³² Ibid., P 50

²³³ <http://www.fas.org/sqp/crs/intel/RL32525.pdf>

²³⁴ European Commission For Democracy through Law, (Venice Commission) Report on the Democratic Oversight of The Security Services, 2007, P30

²³⁵ Making Intelligence Accountable: Legal Standards and Best Practice, Hans Born and Ian Leigh, House of the Parliament of Norway, 2005, P 111

Judicial oversight

15. There are varying degrees of judicial oversight of the security and intelligence agencies in different countries. The only form which exists across all jurisdictions is the accountability which occurs when the subjects of the agencies' investigations lead to prosecution. In some countries there exists judicial review if prior authorisation of judicial warrants is required and in others there is a method of post hoc review of investigative measures which might be considered intrusive.

16. There is also judicial accountability if a citizen brings a case against the Government or the agencies in a civil, constitutional or administration court although the Venice Commission notes that this

depends upon various factors, inter alia the “accident of litigation”, public immunity, national views on justiciability and standing requirements.²³⁶

Finally in some countries, investigations are judicially directed and so in those countries there would be a high degree of judicial oversight from the beginning of the investigation.

17. The Venice Commission notes that the increase of special investigative techniques (telephone tapping, bugging and video surveillance) and data mining could have a detrimental impact on the privacy and human rights of individuals, especially as the restraint of having to demonstrate the collection of such evidence does not necessarily apply in prosecutions for security crimes. This is further compounded by the fact that most security-related cases will never reach prosecution and so the legality of the investigation method will never be examined by a judge if there is no system of prior authorisation.²³⁷

²³⁶ European Commission For Democracy through Law, (Venice Commission) Report on the Democratic Oversight of The Security Services, 2007, Pp42-43

²³⁷ Ibid., P 46

UK system of oversight

History

18. Nominally, MI5 sits under the purview of the Home Secretary and MI6 and GCHQ are under the purview of the Foreign Secretary. However, unlike the usual convention whereby the directors general of Government agencies are directly responsible to the Secretary of State, the heads of the security and intelligence agencies have statutory responsibility for the actions of their agencies and report directly to the Prime Minister. This system has been designed to ensure the political neutrality of the agencies. Part of this convention resulted in the assumption that the Secretary of State would receive advice from the heads of the agencies but would not see the intelligence upon which the advice was based. This has changed since the security and intelligence agencies have been constituted under statute as in the UK there is no prior judicial authorisation requirement (unlike most other western countries) for surveillance such as interception of communications. Instead the Secretary of State fulfils this oversight function, signing warrants as requested by the security and intelligence agencies. This requires evidence to be presented to the Secretary of State. There are also instances concerning the deportation of foreign nationals on the grounds of national security and immunity from liability under UK law for actions taken abroad which involve a similar process of presentation of evidence.²³⁸

19. The UK's intelligence and security agencies were not recognised in statute until 1989 (MI5) and 1994 (MI6 and GCHQ) when a ruling from the European Court of Human Rights required them to be placed upon a statutory basis. Originally the Intelligence and Security Committee was set up by the same 1994 act, the Intelligence Services Act, which means that it is a statutory Committee (unlike most Committees of Parliament which have been set up by Parliamentary Standing Order) meaning that that section of the Act would have to be repealed if the Government or Parliament wished to see the ISC disbanded.

20. The ISC was set up as a Committee of 9 parliamentarians, nominated and appointed by the Prime Minister after consultation with the leader of the opposition. The Chairman of the Committee was also appointed in the same manner. The Committee were then required to produce an annual report to the Prime Minister who, in consultation with the ISC, would then redact any information considered to be harmful to national security before presenting the report to Parliament at a time of his or her choosing.²³⁹

21. Jacqui Smith, the then-Home Secretary, told the House of Commons that in the view of the executive the role of the UK's Intelligence and Security Committee is to assure the public that the "security and intelligence agencies are fulfilling their lawful duties efficiently and effectively."²⁴⁰ This led one academic to question what the Committee should do if it

²³⁸ Intelligence and the Law in the United Kingdom, Ian Leigh, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, Pp 644-5

²³⁹ <http://www.legislation.gov.uk/ukpga/1994/13/section/10>

²⁴⁰ HC Deb, 17 July 2008, [col 455](#)

finds evidence of activities which would diminish public trust in the security and intelligence agencies. Should it publish the evidence of such wrongdoing despite the fact that such publication would undermine public trust in the agencies? Alternatively would the publication of such material increase faith in the scrutiny of the services and thus improve public trust on the basis that on the occasions that the agencies act in a manner that is unlawful or unethical, such behaviour is highlighted and criticised publicly by those who oversee the agencies.²⁴¹

22. In the 2011 Justice and Security Green Paper, the Government highlighted the possibility of introducing a British Inspector General in place of two of the Commissioners who currently oversee the security and intelligence agencies—the Interception of Communications Commissioner who reviews the warrant issuing process, ministers’ and agencies’ performance in acquiring and disclosing communications data and the process by which agencies other than intelligence and military gain access to encrypted data and the Intelligence Services Commissioner who reviews procedures regarding warrants for the ‘interference with property’, electronic surveillance, ‘covert human intelligence sources’ (CHIS) and the requirement for the disclosure of encrypted data. One academic has noted that the public documents produced by these two commissioners “refer almost entirely to basic errors e.g. errors in transposition of telephone numbers rather than providing a broader review of the propriety of covert surveillance operations.”²⁴² When it was published the Justice and Security Bill did not contain provisions for an Inspector General meaning that non-Parliamentary oversight is still divided between the Commissioners and the Investigatory Powers Tribunal (discussed in more detail below) which hears complaints regarding the infringement of rights by the security and intelligence agencies or public authorities under the Regulation of Investigatory Powers Act 2000.

23. The statute concerning the Intelligence and Security Committee was then amended by the Justice and Security Act 2013 which made the following changes:

- Parliament now appoints the 9 members of the Committee (although it can only appoint members who have been nominated by the Prime Minister in consultation with the Leader of the Opposition)
- The Chair of the Committee is now chosen by the membership of the Committee
- It broadened the remit of the ISC to allow it to examine operational matters under certain circumstances
- It required the Committee to report to Parliament although the Prime Minister is still, in consultation with the ISC, able to redact the report

²⁴¹ “A Very British Institution”: The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom, Mark Phythian, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 713

²⁴² http://consultation.cabinetoffice.gov.uk/justiceandsecurity/wp-content/uploads/2012/51_Peter%20Gill%20-University%20of%20Liverpool.pdf

- It no longer allows the head of the security and intelligence agencies to refuse to provide information to the ISC (although the relevant Secretary of State can still refuse to allow the ISC access to any information he or she decides that such information is ‘sensitive’, should not be disclosed ‘in the interests of national security’ or it is ‘information of such a nature that, if the Secretary of State were requested to produce it before a Departmental Select Committee of the House of Commons, the Secretary of State would consider (on grounds which were not limited to national security) it proper not to do so.’)
- Witnesses to the Committee are given the benefit of their evidence to the ISC being barred from use in any criminal, civil or disciplinary proceedings (unless the evidence was given in bad faith)²⁴³

Parliamentary accountability

24. As well as producing annual reports, the Committee has also undertaken thematic inquiries, sometimes at their own initiation and sometimes at the request of the Government.²⁴⁴ This has included operational activities prior to the statutory ability to examine such activity being introduced in the Justice and Security Act 2013. The Committee has also examined the work of the Joint Intelligence Committee, the work of the Joint Terrorism Analysis Centre and Defence Intelligence despite it not being part of their statutory remit.

25. Academics have highlighted a number of achievements of the Intelligence and Security Committee. The Committee operates in a bipartisan fashion and its lack of public evidence sessions mean that there is no ‘grandstanding’ amongst its members. It has largely satisfied calls for public accountability of the security and intelligence agencies. The executive has a high regard and level of trust in its ability to scrutinise and it has a good working relationship with the agencies it scrutinises. One academic noted (prior to the Justice and Security Act 2013) that the ISC had worked well, despite its weak legal powers.²⁴⁵ There have been no leaks of sensitive information from the Committee.²⁴⁶ Another academic has noted that most commentators found that in its first decade of existence the ISC had performed “creditably in general but poorly over the issue of Iraq.”²⁴⁷ Further criticisms have been levelled at the Committee’s work on the 7/7 bombings and their rendition inquiry.

²⁴³ <http://www.legislation.gov.uk/ukpga/2013/18/schedule/1/enacted>

²⁴⁴ For instance, the Mitrokhin archives, the Bali Bombing and the continuation of the Gibson rendition inquiry.

²⁴⁵ Accountability of Security and Intelligence in the United Kingdom, Ian Leigh, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, Pp91-95

²⁴⁶ “A Very British Institution”: The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom, Mark Phythian, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P704

²⁴⁷ Theories of Intelligence, Peter Gill, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P53

Failures of parliamentary accountability

26. There have been a number of instances where the Intelligence and Security Committee have been criticised for its level of scrutiny of the agencies.

Provision of information

27. There have been a number of criticisms of the provision of information both by and to the Intelligence and Security Committee. Early on in its existence, the ISC tried to convince the Government that the Single Intelligence Account (whereby the House of Commons agrees an overall budget for the security and intelligence agencies without revealing the allocations for each agency) was unnecessary.²⁴⁸ The Government has refused despite the fact that the heads of the agencies have apparently indicated that they do not believe it to be sensitive information.²⁴⁹ The ISC have also unsuccessfully tried to persuade the Government to allow it access to the confidential annexes of the report of the Intelligence Services Commissioner and the Interception of Communications Commissioner.²⁵⁰

28. The ISC's 2006–07 annual report highlighted that the Government was refusing to allow it access to a ministerial submission on the basis that the Committee had been 'given categorical assurances' as to what had happened. The Committee was also told that as the submission was to a previous administration, the Government could not release it despite assurances from the Foreign Secretary who had received the submission indicating willingness to see the document released to the Committee. The annual report noted that

The primary reason for this refusal has been that the Committee was told all the relevant information from the submission and therefore has no need to see the actual document. Additional reasons cited have been: that the police were conducting an investigation (the following year); that the submission would be outside the remit of the Committee (later the same year); and that the papers remain sensitive as defined in Schedule 3 of the Intelligence Services Act and there is no public interest argument for the Committee to see the papers (four years after the original request for the papers).²⁵¹

29. The Committee has also previously criticised the lack of openness in the testimony of the then-Secretary of State for Defence when he gave evidence to their inquiry into the suggestion that Iraq had weapons of mass destruction. A 2010 academic paper highlighted that

Questions have also been raised about the ISC's reliance on the agencies to supply information in response to requests from the Committee, and the role of ministers acting as "gatekeepers" in the provision of that information

²⁴⁸ Intelligence and Security Committee, Annual Report 2001–2002, June 2002, Command Paper 5542, para 26

²⁴⁹ Accountability of Security and Intelligence in the United Kingdom, Ian Leigh, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, Pg 89

²⁵⁰ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, P 190

²⁵¹ Intelligence and Security Committee, Annual Report 2006–2007, January 2008, Command Paper 7299, para 125

(Wadham, 1994; Gill, 1996). These concerns have been reinforced by reports from the ISC itself about a lack of candour on the part of Ministers (ISC, 2003), and prominent recent cases in which the Committee has revisited earlier enquiries to take account of material which was not made available to them at the time of their original investigations (ISC, 2009a, 2009b).²⁵²

30. The ISC has been criticised regarding its own provision of information to the public. It has compared unfavourably to both Australia's Parliamentary oversight Committee²⁵³ and Canada's Security Intelligence Review Committee in terms of the level of detail included in their reports.²⁵⁴ Its report in to Iraqi Weapons of Mass Destruction was also deemed to have been less informative than either the Hutton inquiry or the Butler review.²⁵⁵

Iraq

31. The ISC's report on the intelligence and assessments around Iraqi Weapons of Mass Destruction led to significant criticism of the Committee. The Hutton report published many of the documents which the ISC had examined but decided not to publish and the Butler report highlighted information about MI6 withdrawing intelligence which the ISC had failed to examine in their report.²⁵⁶ Furthermore, it later emerged that the Committee had not been provided with all the relevant JIC assessments by the Government despite assurances to the contrary. The ISC later concluded that this had been a mistake rather than a deliberate attempt to mislead the Committee but still expressing considerable concern that such a mistake could take place. One academic described this as a "masterful understatement" given the nature of the inquiry.²⁵⁷

7/7 bombing

32. In May 2006, the ISC published their report in to the July 2005 bombings. In relation to the surveillance of two of the bombers by the security service as part of an operation investigating a separate terrorist plot (Operation Crevice), the ISC stated

The Security Service did not seek to investigate or identify them at the time although we have been told that it would probably have been possible to do so had the decision been taken. The judgement was made (correctly with hindsight) that they were peripheral to the main investigation and there was

²⁵² Bochel, H, Defty, A & Dunn, A, 'Scrutinising the Secret State: Parliamentary Oversight of the Intelligence and Security Service' (2010) 38(3) Policy and Politics 483

²⁵³ Intelligence and the Law in the United Kingdom, Ian Leigh, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 647

²⁵⁴ Accountability of Security and Intelligence in the United Kingdom, Ian Leigh, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, Pg 89

²⁵⁵ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, Pp 192-194. Also, "A Very British Institution": The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom, Mark Phythian, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 707

²⁵⁶ Ibid.

²⁵⁷ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, Pp 193

no intelligence to suggest they were interested in planning an attack against the UK. Intelligence at the time suggested that their focus was training and insurgency operations in Pakistan and schemes to defraud financial institutions. As such, there was no reason to divert resources away from other higher priorities, which included investigations into attack planning against the UK.²⁵⁸

However following the conviction of those subject to investigation as part of Operation Crevice (a plot to plant explosives in a number of highly populated areas), the then-shadow Home Secretary called for a further, public, inquiry as a result of the details which had emerged at the trial.

After the 7/7 bombings, the then Home Secretary told us that the attack came out of the blue. The security agencies briefed the press that the suicide bombers were all unknown to them. We now know that that was not true. Two of the 7 July bombers had been under surveillance for more than a year. MI5 dropped the surveillance. It said that that was unavoidable, based on the surveillance resources available to it. As the Home Secretary has said many times, there will never be a 100 per cent. guarantee against terrorism—and we do not expect that, but some mistakes are inevitable and some are not.²⁵⁹

33. The Government had already decided that it would ask the ISC to re-investigate and to publish a detailed document which answered the “questions that have been posed before, during and after this trial.”²⁶⁰ The then-shadow Home Secretary indicated that he was not satisfied with the actions being taken.

His web-based response is not the answer. The ISC does not have the investigative capacity to give the answer.²⁶¹

As one academic later noted, the Government’s decision to ask the ISC to reinvestigate the matter implied that they had not previously had access to all material and that their previous conclusions had been undermined by the emergence of details in the prosecution of the Operation Crevice subjects. He suggests that such a situation was a “catch-22 situation which could only further undermine its credibility with Parliament and the public.”²⁶²

Rendition

²⁵⁸ Intelligence and Security Committee, Report into the London Terrorist Attacks on 7 July 2005, May 2006, Command Paper, 6785, Para 48

²⁵⁹ HC Deb, 30 Apr 2007: [Col 1235](#)

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² “A Very British Institution”: The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom, Mark Phythian, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 709

34. In their July 2007 report on rendition, the Committee reported that in the case of Binyam Mohamed, the Security Service had not had any contact with Binyam Mohamed after a 2002 interview in Pakistan and that

There is a reasonable probability that intelligence passed to the Americans was used in [Binyam Mohamed] al-Habashi's subsequent interrogation. We cannot confirm any part of al-Habashi's account of his detention or mistreatment after his transfer from Pakistan.²⁶³

35. However, in legal action by Binyam Mohamed against the UK Government requiring information for his defence against possible prosecution in the US, it later emerged that not only had the Security Service been in contact with their US counterparts regarding Mr Mohamed, they had provided their counterparts with a list of further questions to be put to him in 2003. There was also evidence that the Security Service had been kept informed by US officials as to treatment he was subject to which was later judged by a US court to amount to torture. In his judgement on the case, Lord Neuberger highlighted the fact that the Security Service had misled the Intelligence and Security Committee.

It is also germane that the Security Services had made it clear in March 2005, through a report from the Intelligence and Security Committee, that "they operated a culture that respected human rights and that coercive interrogation techniques were alien to the Services' general ethics, methodology and training" (paragraph 9 of the first judgment), indeed they "denied that [they] knew of any ill-treatment of detainees interviewed by them whilst detained by or on behalf of the [US] Government" (paragraph 44(ii) of the fourth judgment). Yet, in this case, that does not seem to have been true: as the evidence showed, some Security Services officials appear to have a dubious record relating to actual involvement, and frankness about any such involvement, with the mistreatment of Mr Mohamed when he was held at the behest of US officials. I have in mind in particular witness B, but the evidence in this case suggests that it is likely that there were others.²⁶⁴

36. The Parliamentary Joint Committee on Human Rights discussed the implications of this case in their 2009 report 'Allegations of UK Complicity in Torture', noting that

In particular, we doubt whether Parliament or the public has been convinced by the ISC that the security services always operate within the law and that transgressions of the law are appropriately dealt with. We would welcome greater transparency in the ISC's proceedings, such as public evidence sessions, but procedural innovations will not be sufficient to convince us, and the public, that the Government is being held to account.

The missing element, which the ISC has failed to provide, is proper ministerial accountability to Parliament for the activities of the Security Services. In our view, this can be achieved without comprising individual

²⁶³ Intelligence and Security Committee, Rendition, July 2007, Command Paper 7171, Conclusion M

²⁶⁴ <http://www.bailii.org/ew/cases/EWCA/Civ/2010/65.html>

operations if the political will exists to provide more detailed information to Parliament about the policy framework, expenditure and activities of the relevant agencies. The current situation, in which Ministers refuse to answer general questions about the Security Services, and the Director General of MI5 will answer questions from the press but not from parliamentarians, is simply unacceptable.²⁶⁵

Such thoughts have been echoed following the recent decision to ask the ISC to revisit its rendition report after a judge-led (Gibson) inquiry in to rendition had been unable to complete its work due to criminal investigations into a number of cases where rendition had been alleged. Following the announcement that the ISC would take over from the Gibson inquiry, the shadow Minister asked what steps were being taken to address perceptions that the ISC's inquiry would be a whitewash²⁶⁶ and the Chairman of the APPG on rendition asked

The Minister has said that the ISC will complete this work, but what confidence can the public have in its conclusions when that same body wrongly concluded that Britain was not involved in 2007, only to be flatly contradicted by a High Court ruling the following year? Is it not the case that the ISC's new powers about which we have just heard are in any case heavily qualified—papers may be withheld on grounds of sensitivity and the ISC's remit on operational matters is only permitted in certain circumstances?²⁶⁷

Other systems of accountability

37. As well as the ISC, oversight of the security and intelligence agencies is carried out by two commissioners (the Intelligence Services Commissioner and the Interception of Communications Commissioner) and the Investigatory Powers Tribunal. Both of the Commissioners are former senior Judges and the members of the Tribunal must be senior members of the legal profession to be appointed with the President and the Vice-President having held high judicial office.²⁶⁸

The Intelligence Services Commissioner and the Interception of Communications Commissioner

38. The Commissioners gain their statutory remit from the Regulation of Investigatory Powers Act 2000 (and the Intelligence Services Act 1994). They monitor the security and intelligence agencies' (amongst others) compliance with the statutory requirements in relation to their operations. This is post-hoc monitoring, a fact that has been subject to criticism as there are suggestions that such oversight should take place prior to

²⁶⁵ Joint Committee on Human Rights, Twenty-third Report of Session 2008–09, *Allegations of UK Complicity in Torture*, HC 230, paras 64–65

²⁶⁶ HC Deb, 19 Dec 2013: [Col 917](#)

²⁶⁷ HC Deb, 19 Dec 2013: [Col 921](#)

²⁶⁸ <http://www.ipt-uk.com/docs/IPTAnnualReportFINAL.PDF>

operations.²⁶⁹ Such monitoring is of the warrants and authorising decisions prepared for and issued by agency personnel rather than the examination of individual cases. The Commissioners do not deal with complaints, which are instead directed to the Investigatory Powers Tribunal.

The Investigatory Powers Tribunal

39. The Investigatory Powers Tribunal is also formed under the Regulation of Investigatory Powers Act 2000 with a remit to investigate individual's complaints against the security and intelligence services as well as other bodies who have powers under RIPA. The Tribunal rarely hears cases in public and there are no obligations upon the tribunal to allow the complainant or their legal representatives to be present during a hearing. Up to 2012, the Investigatory Powers Tribunal has received 1468 complaints. It has found in favour of at least 10 of those complainants (the IPT did not publish statistics relating to cases which had been determined in favour of the complainant in 2012, unlike previous years).

Year	Total complaints	Complaints upheld
2000 and 2001	102	0
2002	130	0
2003	109	0
2004	90	0
2005	80	1
2006	86	0
2007	66	0
2008	136	2
2009	157	1
2010	164	6
2011	180	0
2012	168	unknown
Total	1468	10

Data taken from Reports of the Interception of Communications Commissioner and the website of the Investigatory Powers Tribunal

It has been highlighted by campaigners however that half of these upheld complaints were members of the same family who complained jointly. The IPT has therefore determined in favour of the complainant in a maximum of six cases.²⁷⁰

40. The absence of successful complaints has been used by some academics to demonstrate that the Investigatory Powers Tribunal is overly protective of state security and ought to be replaced by another form of oversight. One suggestion is to replace the Commissioners and the IPT with an independent Inspector General.²⁷¹ This concept featured in the current Government's Justice and Security Green paper but was not adopted in the bill. In response to the green paper, one academic stated

²⁶⁹ http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/24_09_13_fo4_secretcyandsurveillance.pdf

²⁷⁰ http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/24_09_13_fo4_secretcyandsurveillance.pdf

²⁷¹ Accountability of Security and Intelligence in the United Kingdom, Ian Leigh, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P95; Intelligence and the Law in the United Kingdom, Ian Leigh, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P648

The fact that these institutions do not provide comprehensive oversight of the intelligence agencies has been exposed by the 'torture' cases. It could be argued that the structures, originally designed in late 1980s to respond to or head off ECtHR decisions were designed mainly to provide minimal compliance with the ECHR, which they have done.²⁷²

²⁷² http://consultation.cabinetoffice.gov.uk/justiceandsecurity/wp-content/uploads/2012/51_Peter%20Gill%20-University%20of%20Liverpool.pdf

US system of oversight

History

41. The 1960s and early 70s in the United States were a period of protest and civil unrest. A number of allegations about the intelligence activities of a number of Government Agencies surfaced. There were a number of congressional investigations into various allegations about the US Army, the FBI, the CIA and other agencies. These investigations found evidence of abuses against American citizens including:

- Illegal reading of private mail by the CIA;
- Over 1 million unauthorised CIA and FBI files on individuals;
- Electronic eavesdropping on private telephone conversations by the NSA;
- 100,000 unauthorised background checks by Army intelligence units;
- The unauthorised release of individual's tax records by the Inland Revenue Service;
- CIA infiltration of religious, media and academic organisations;
- CIA manipulation of foreign elections: and,
- CIA (unsuccessful) attempts to assassinate two foreign leaders.²⁷³

It was the discovery of these abuses which led to the creation of permanent select committees on intelligence in the Senate in 1976 and the House of Representatives in 1977.

Congressional accountability

42. There are no official limits on the remit of Congressional Committees which mean that they can determine the scope of their inquiries.²⁷⁴ However, the US has 16 different intelligence agencies based across the Department of Defense, the Justice Department, the Department of Homeland Security and the Treasury Department.²⁷⁵ Therefore jurisdiction of congressional oversight is spread over a number of committees - Appropriation, Armed Services, Judiciary and Homeland Security all have aspects of intelligence as part of their remit.²⁷⁶ One finding from the 9/11 Congressional Commission was that Congress needed

²⁷³ The United States Department of Defense Intelligence Oversight Programme: Balancing National Security and Constitutional Rights, George B. Lotz, II, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P 113

²⁷⁴ Accounting for the Future or the Past?: Developing Accountability and Oversight Systems to Meet Future Intelligence Needs, Stuart Farson and Reg Whitaker, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 688

²⁷⁵ National Security Intelligence, Loch K. Johnson, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 7

²⁷⁶ Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 67

to overhaul its oversight of intelligence as the system was dysfunctional. However, although a number of the Commission's recommendations, such as the creation of a Director of National Intelligence, have been implemented, congressional oversight has not been reformed and discussions around the most effective form of oversight are still continuing.²⁷⁷

Failures of Congressional accountability

43. Despite being one of the World's most powerful oversight bodies, Congress remains dependent on willingness of representatives to engage in routine oversight and on the administration (the White House and Government Departments) to keep Committees informed.²⁷⁸ There are numerous examples in Congress' history of Committees being misled by officials (as during the Iran-Contra affair and during a Senate Select Committee on Intelligence inquiry on links between the CIA and a Guatemalan military officer); refusing to provide documents or appear before Committees: and, providing large amounts of irrelevant material in order to keep the Committee distracted from its purpose.²⁷⁹

44. As well as the issues of divided jurisdiction across a range of Committees, analysts have also suggested that congressional oversight is less effective when the President, Senate and House all have same political leadership.²⁸⁰ The dedication of the members of the oversight committees can also impact upon the effectiveness of scrutiny. One study found that between 1975 and 1990, although members turned up for high-profile sessions which dealt with areas where mistakes had been made, attendance at the regular sessions was on average, roughly a third of the total membership of the committee.²⁸¹

45. Furthermore there is an acceptance of some members on the Senate²⁸² and House Permanent Select Committees on Intelligence that their role is to advocate on behalf of the security and intelligence agencies. In a staff study produced by the House Committee in 1996, it was noted that

²⁷⁷ The Politics of Intelligence Accountability, Glenn Hastedt, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 726,

²⁷⁸ Balancing Operational Efficiency and Democratic Legitimacy, Hans Born and Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 229

²⁷⁹ Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 70

²⁸⁰ Accounting for the Future or the Past?: Developing Accountability and Oversight Systems to Meet Future Intelligence Needs, Stuart Farson and Reg Whitaker, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 681

²⁸¹ Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 68

²⁸² Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, P 70

Each committee charged with congressional oversight has a dual responsibility. The most obvious is to oversee the various agencies under its mandate, approve their budgets, investigate known or suspected problems, and report back to the House on these matters. Recognizing the impossibility of each Member being conversant with (or intensely interested in) all issues, the committee system delegates responsibility to the committees and accepts their leadership in specific areas. Given the checks and balances nature of the congressional-executive relationship, each committee has, at some level, an adversarial role with its Executive Branch opposites. The relationship need not be overtly or continuously hostile, but there is inevitably a certain amount of friction involved.

The responsibility for being the House's resident experts on given programs and agencies also gives rise to a second role for each oversight committee, that of advocacy for those agencies and programs. It is only natural that those Members most interested in and most conversant with agencies and programs will also, on occasion, be their advocates. Increasingly constrained debates over budget shares, disinterest or outright hostility from other Members about agencies or programs for a wide variety of reasons, all put oversight committees in this advocacy role as well.²⁸³

This advocacy role can be further demonstrated by the fact that Committee members have previously highlighted their desire to ensure that the security and intelligence agencies do not lack resources or access to technology.²⁸⁴ The balance between scrutiny and advocacy is not always apparent to the public as the Senate and House Permanent Select Committees on Intelligence rarely report to the public, seldom hold open hearings and have websites with little information.²⁸⁵

Other systems of accountability

46. As with the UK there are a number of other systems of oversight when it comes to the US security and intelligence agencies. The recent report by the President's review group on intelligence and communications technology noted that

One thing that makes United States intelligence collection unique is the degree of oversight and control by high-level officials, elected legislative members, and the judiciary ... No other intelligence services in the world are

²⁸³ <http://www.gpo.gov/fdsys/pkg/GPO-IC21/html/GPO-IC21-15.html>

²⁸⁴ *Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States*, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*. Born, Johnson, and Leigh (eds), 2005, P 62

²⁸⁵ *Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States*, Loch K. Johnson *Who's Watching the Spies?: Establishing Intelligence Service Accountability*. Born, Johnson, and Leigh (eds), 2005, P 64

subjected to the degree of policy, legislative, and judicial review now applied to the US Intelligence Community.²⁸⁶

The US security and intelligence agencies are subject to oversight and enforcement from the:

- Legislative Branch
 - Congress - Determines whether and how to authorise/fund intelligence activities and conducts oversight via intelligence and other committees.
- Judicial Branch
 - Foreign Intelligence Surveillance Act (FISA) Court - Rules on matters under Foreign Intelligence Surveillance Act.
- Executive Branch
 - Privacy and Civil Liberties Oversight Board - Provides privacy/civil liberties advice and oversight for US Government efforts to protect the nation from terrorism.
 - President's Intelligence Oversight Board - Reviews reports of potential violations of law and executive order on behalf of President.
 - Department of Justice - Includes DOJ's National Security Division and DOJ's Privacy and Civil Liberties Office.
 - Office of the Director of National Intelligence-level officials - Includes ODNI's Civil Liberties and Privacy Office, ODNI Office of General Counsel, and the Intelligence Community Inspector General.
 - Department-level officials - At the department level, these can include departmental counterparts to the agency-level organizations, and may also include other offices (for example, DOD's Assistant to the Secretary of Defense for Intelligence oversight).
 - Agency-level officials - At the agency level, these can include the following organizations: Offices of General Counsel, Offices of Inspector General, Civil Liberties and Privacy Offices, Intelligence Oversight Offices, Compliance Offices (for example, NSA's new Civil Liberties and Privacy Officer position, and NSA's Office of the Director of Compliance).²⁸⁷

²⁸⁶ Liberty and Security in a changing world: Report and Recommendations of The President's Review Group on Intelligence and Communications Technologies, December 2013, pg 166

²⁸⁷ Liberty and Security in a changing world: Report and Recommendations of The President's Review Group on Intelligence and Communications Technologies, December 2013, pg 269

47. There have also been a number of Commissions ordered by the White House or Congress which have examined failures by security and intelligence agencies.²⁸⁸ In 1975, the President set up the Rockefeller Commission which was created in response to a December 1974 report in *The New York Times* that the CIA had conducted illegal domestic activities, including experiments on U.S. citizens, during the 1960s. It was the discovery of such activities which led to the eventual creation of the Senate and House Permanent Select Committees on Intelligence. The Aspin-Brown Commission, established by Congress, followed the Black Hawk Down incident which took place in October 1993. The purpose of the Commission was to determine how best to adapt the Intelligence Community to the challenging new world that had emerged following the end of the Cold War.²⁸⁹ The National Commission on Terrorist Attacks Upon the United States, (also known as the 9/11 Commission) was set up by Congress in November 2002, to prepare a full and complete account of the circumstances surrounding the September 11 attacks, including preparedness for and the immediate response to the attacks. The most recent special commissions looking at intelligence-related matters was the Presidentially-mandated Silberman-Robb Commission, otherwise known as the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction which reported in 2005. Both the 9/11 Commission and the Silberman-Robb Commission were critical of the security and intelligence agencies actions prior to 9/11 and the Iraq War.

Comparison

	Parliament	House	Senate
Number of members	9	21	15
Number of staff	8 and one part-time investigator. ²⁹⁰	36 ²⁹¹	45 ²⁹²
Membership appointed by	Parliament, following nomination by the Prime Minister who must consult with the Leader of the Opposition	Party leadership	Party leadership
Members vetted prior to appointment ²⁹³	No	No (but all members of the House of Representatives are automatically given access to classified material upon their election)	No (but all members of the Senate are automatically given access to classified material upon their election)

²⁸⁸ *Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States*, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*. Born, Johnson, and Leigh (eds), 2005, P 58

²⁸⁹ <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol48no3/article01.html>

²⁹⁰ [CTE0042](#). Letter from Sir Malcolm Rifkind MP. He notes that there are four full-time vacancies and three part-time vacancies on the staff of the Committee.

²⁹¹ http://www.legistorm.com/office/House_Permanent_Select_Committee_on_Intelligence/1538/187.html

²⁹² http://www.legistorm.com/office/Senate_Select_Committee_on_Intelligence/687/189.html

²⁹³ *Parliamentary and External Oversight of Intelligence Services*, Hans Born, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P174

Confirmation of appointment of key officials ²⁹⁴	No	No	Yes
Access to classified material	Access can be refused by Secretary of State ²⁹⁵	Total Access	Total Access
Can reveal classified material without permission from the executive	No	No	Yes, with the approval of the full Senate
Prior notification	No legal duty (although the ISC has informed agencies that it would expect to be 'properly and promptly informed' of their activities. ²⁹⁶)	Yes (except in times of emergency when the agency can delay reporting for up to two days)	Yes (except in times of emergency when the agency can delay reporting for up to two days)
Produce annual reports on the work of the Committee	Yes	Yes	Yes

48. There is an obvious distinction in terms of the resources available to the Committees. One academic has noted that when the congressional committees held a joint inquiry into the events of 11 September 2011, they employed 24 researchers and interviewed 300 people. In a comparable piece of work, the ISC interviewed 37.²⁹⁷ The joint inquiry's team of researchers was split into five investigative teams who interviewed witnesses, reviewed documents and sent out questionnaires. These researchers carried out investigative work at the FBI, CIA and NSA as well as other Departments where they felt they might find further relevant information. In contrast the ISC does not appear to have used their investigator as part of their 9/11 inquiry, instead relying on oral evidence from Ministers, Directors General of the Services and officials.²⁹⁸

49. Spending on intelligence greatly differs between the two countries with UK security and intelligence agencies receiving roughly £2 billion a year, as compared to the US national intelligence programme's budget of £31.5 billion.²⁹⁹ The greater number of agencies and the information produced by those agencies means that although US Committees have greater access to information than their UK counterparts, they also have more information to sift through. A former director of the NSA once likened intelligence pouring in to US intelligence agencies as akin to a fire hose being held to the mouth³⁰⁰—

²⁹⁴ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, P 183

²⁹⁵ Schedule 1, Part 4 (2) (b)

²⁹⁶ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, P 185

²⁹⁷ The UK's Intelligence and Security Committee, Ian Leigh, *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, P 192

²⁹⁸ Democratic and Parliamentary Accountability of Intelligence Services After 9/11, Peter Gill *Democratic Control of Intelligence Services*, Born and Capriana (eds), 2007, P 208

²⁹⁹ http://www.washingtonpost.com/world/national-security/black-budget-summary-details-us-spy-networks-successes-failures-and-objectives/2013/08/29/7e57bb78-10ab-11e3-8cdd-bcdc09410972_print.html

³⁰⁰ National Security Intelligence, Loch K. Johnson, *The Oxford Handbook of National Security Intelligence*, Loch K. Johnson (eds), 2012, P 20

such a metaphor would therefore also be appropriate to the amount of information being available to US Committees and their ability to examine it all.

50. The difference in political systems is also significant – whilst it appears that in both the UK and the US, party leadership is responsible for the nomination of the oversight committee the difference in systems means that the executive is responsible for nominating the members of the ISC. In the US, the fact that the House and Senate leadership are able to be from the opposition party (and that the separation of powers ensures a clear delineation between the legislature and the executive) means that the nomination of members for the US committees is a process in which the executive has no role.

Conclusion

51. In 2007, researchers wrote that robust accountability by a legislature relied on three factors – authority, ability and attitude.³⁰¹ There are two different approaches to legislative oversight which are discussed in academic literature – the ‘police-patrol’ and the ‘fire-alarm’ model. The police-patrol model is defined as the legislature examining a sample of activities carried out by an executive agency, the idea being that it will detect any activity which contravenes the legislature’s expectation of practices and that such surveillance will discourage an agency from engaging in actions which would result in disapproval or action on the part of the legislature. The fire-alarm model is a more reactive model whereby the legislature will be alerted to activities which contravene the legislature’s (and the public’s) expectations of practice by interest groups, the media or even their electorate.³⁰²

52. Whilst the US and UK have similar ‘police-patrol’ bodies within their legislature, their ‘fire-alarm’ bodies differ. In US, responses to perceived failures within the intelligence community have tended to be presidential or congressional commissions. In contrast, in the UK, the response in recent times has been to set up an inquiry, usually led by a senior judicial figure (which is therefore outside of the legislature). However these two approaches appear to be converging – the UK’s Commission on Banking Standards was similar in its nature to a Congressional Commission whereas the presidentially-ordered review in to intelligence and communications technologies could be seen as being similar to an independent inquiry, such as the Butler Committee.

53. It has been suggested that oversight committees in both the US and the UK were aware of the programmes highlighted by Edward Snowden’s leaks to various media outlets.³⁰³ Following those leaks there are a number of inquiries being held in various legislatures on the issue of balancing privacy with security. In the US, the reaction of Congressional Committees has been to hold inquiries with Judiciary Committees in both the House and the Senate holding inquiries as well as the Intelligence Committees. It is obvious that the latitude afforded to congressional committees to examine intelligence matters by the executive is perhaps the key difference between the US system and the UK system where the Government consistently refuses to allow committees other than the ISC to ask questions on the work of the security and intelligence agencies. Given that a number of important issues have been raised and debated as part of the work of the Judiciary Committees, it is perhaps telling that the debate has been more charged in the US where more representatives are able to scrutinise the work of such agencies.

³⁰¹ Intelligence Services: Strengthening Democratic Accountability, Hans Born and Fairlie Jensen, *Democratic Control of Intelligence Services*, Born and Caparini (eds), 2007, P266

³⁰² Governing in the Absence of Angels: On the Practice of Intelligence Accountability in the United States, Loch K. Johnson, *Who's Watching the Spies?: Establishing Intelligence Service Accountability*, Born, Johnson, and Leigh (eds), 2005, Pp59-60

³⁰³ <http://www.iiss.org/en/politics%20and%20strategy/blogsections/2013-98d0/november-47b6/snowden-9dd1>

Conclusions and recommendations

Foreign fighters

1. The number of UK citizens and Westerners travelling to fight in foreign conflicts has reached alarming levels unlike anything seen in recent years. We require an immediate response targeted at dissuading and preventing those who wish to go to fight from going; helping countries who are key to intercepting those who are entering Syria, and ensuring those who return do not present a danger to the UK. (Paragraph 58)
2. We are alarmed by the relative ease by which foreign fighters appear to be able to cross the border into Syria. It is the responsibility of the international community to assist transit countries, and the UK must offer practical support to those countries in securing their borders. We have been impressed by the efforts made to prevent football hooliganism in foreign countries by sending “spotters” to help pick out those at risk of committing criminal acts and believe similar practical help would be beneficial in the fight against terrorism. We recommend that the Government maintain representation from the UK Counter Terrorism command to help the Turkish authorities identify those who are at risk of crossing the border into Syria intending to fight and make available any relevant intelligence to the Turkish authorities that may be beneficial. The Government should also work with transit countries such as Turkey, Lebanon and Jordan to better establish who is likely to be travelling for genuine humanitarian reasons. (Paragraph 59)
3. The Government needs a clear strategy for dealing with foreign fighters on their return, which may include help to come to terms with the violence they have witnessed and participated in, as well as counter-radicalisation interventions. We are concerned that their experiences may well make them vulnerable to Post-Traumatic Stress Disorder thereby increasing their vulnerability to radicalisation. We recommend that the Government implement a programme, similar to Channel, for everyone returning to Britain where there is evidence that they have fought in Syria. The engagement in this strategy should be linked to any legal penalties imposed on their return. In developing the strategy the Government must work with mental health practitioners and academia to ensure that the programme best integrates those returning from conflict zones such as Syria. (Paragraph 60)

Capacity building

4. The increasingly diverse and dispersed nature of the threat makes capacity building a front-line defence against a changing threat landscape. We note that the Foreign and Commonwealth Office’s budget is limited by available resources but given the importance of capacity building to the Government’s counter-terrorism efforts we look to the OSCT and the FCO to reassure us that the Counter-Terrorism Fund will be maintained at current levels in this and the next financial year. In the light of the announcement that the Prime Minister is considering using some of the UK’s aid budget on peace keeping and other defence-related projects, we recommend that

within the definitions of Overseas Development Aid, money could be used to increase resource for capacity building abroad. (Paragraph 75)

5. We accept that some of the UK's capacity building programmes are sensitive but we believe that greater transparency about how much the Government spends on capacity building overseas and who funds these programmes (i.e. fully by UK Government or jointly between UK and EU) is crucial for accountability. (Paragraph 78)
6. We recommend that the Government raise the issue of Interpol databases as part of discussions around counter-terrorism at the next EU Justice and Home Affairs Council and encourage others to utilise the tools at **their** disposal. (Paragraph 85)
7. Interpol is an international policing organisation with a proven record of success and should be widely supported. We recommend that the Government take the lead in working with Interpol and the UK's international partners to create an international operational platform supporting terrorist investigations. The UK should use its pivotal position in the G7 to ensure that this change is achieved. Whilst UK policing may lack sufficient resources to supply a significant number of staff to such a platform, we also recommend the Government consider offering to host the permanent base of the platform. (Paragraph 87)

The UK's response to the terrorist threat

8. The withdrawal of passports is a vital tool in preventing UK citizens from travelling to foreign conflicts. We understand the need to use the prerogative power to withdraw or withhold a citizen's passport. Given that the estimates of foreign fighters are in the low hundreds, we are surprised that it has only been used 14 times since April 2013 and recommend that, in all appropriate circumstances where there is evidence, the power is utilised as an exceptional preventative and temporary measure. However, we note that its use is not subject to any scrutiny external to the executive. We recommend that the Home Secretary report quarterly on its use to the House as is currently done with TPIMs and allow the Independent Reviewer of Terrorism Legislation to review the exercise of the Royal Prerogative as part of his annual review. (Paragraph 96)
9. We have grave concerns about how effective the deprivation of mono-citizenship powers will be. Drafting legislation on the basis of an individual case lessens the impact of the legislation because the exact circumstances are unlikely to repeat themselves. We support the Minister's commitment to the power being used sparingly. We recommend that the Government endeavour to use the power only when the person subject to the decision is outside the UK. (Paragraph 101)
10. It is deeply worrying that anyone who is subject to a TPIM, or those who were subjects of control orders, can abscond with relative ease. We recommend that a review of the types of measures placed upon subjects needs to be conducted to ensure that enough is being done to prevent absconsion. (Paragraph 109)

11. So far there have been no jury convictions of breaches of TPIMs or Control Orders and the CPS needs to bear this in mind when bringing prosecutions. We recommend that the Government and Crown Prosecution Service produce specific guidance on investigating and prosecuting breaches. The continued failure to secure a conviction undermines the system of TPIMs. (Paragraph 112)
12. Many breaches of a TPIM order are minor infringements which might plausibly have happened inadvertently. It is therefore right that the CPS does not prosecute every single breach, considering the cost to the public purse and the difficulty of convincing a jury of the materiality of the alleged breach without being able to explain the basis on which the relevant restriction was included in the order. It is worth noting that no prosecution has been successful following a not-guilty plea and in only one case has the accused pleaded guilty. In the case of the tag tampering trial, it is of serious concern that the prosecution was discontinued. Deliberately tampering with a tag must be viewed as an attempt to abscond and we recommend that the Home Office request independent testing of the tags provided by G4S to definitively prove, as they claim, a tag-tamper alert can only be caused through deliberate actions. This will enable the Home Office to present reliable evidence to the court that such an alert cannot be caused inadvertently. Given that five prosecutions for tag tampering have been withdrawn or collapsed it is vital that both the public and TPIM subjects understand the extent to which it might or might not be possible for a tag-tamper alert to be innocently caused. (Paragraph 115)
13. It is essential that the Government engages with those placed on a TPIM whilst they are subject to the control and not only afterwards. It is a missed opportunity not to implement a de-radicalisation programme until the subjects are free of the measures. We recommend that all TPIM subjects are placed on a graduated scheme, which commences concurrently with the measures, with the sole purpose of engagement and de-radicalisation. We accept that the anonymity order may cause difficulties in terms of liaising with the local community when seeking support for that process. However, we believe that the Government should engage with community leaders who are working with prisoners and ex-prisoners who have been radicalised in order to design a programme which would be suitable for TPIM subjects. Such a programme should take account of the different narratives of radicalisation. Due to the constraints placed on a subject it is unlikely that they will be eager to engage with the state or official parts of society. It is disastrous, therefore, for a subject to left without a constructive path towards reintegration following the end of the measures. The Government must ensure that an exit strategy is started as soon as the TPIM is imposed upon a subject. We recommend a continuation of the de-radicalisation engagement programme which they would have started under the TPIM which evolves into a more practical scheme enabling the former subject to reconnect with society through work or education. (Paragraph 120)
14. We welcome the progress made by internet companies such as Google (who own YouTube) in the work they are doing to promote counter narratives. We commend the work by the creators of Abdullah-X and note the importance of peer-led education. Given the role that social media is playing in the dissemination of extremist messages we hope that other large multi-national social media companies

will follow suit. We note the significance of the independence of funding for these types of project but recognise the desperate need for more resources to be made available. We, therefore, recommend that the Government asks the European Union and other independent funders to prioritise resources for community projects such as Abdullah-X. (Paragraph 126)

15. We recommend that the responsibility for countering terrorist financing be given to the Office for Security and Counter-Terrorism where it will be considered a higher priority. Although it is not an area where success comes easily, cutting off the flow of money to terrorist organisations and the identification of foreign fighters are vital to the UK's response to the terrorist threat. (Paragraph 129)
16. We are deeply concerned with the potential for 'bogus' charities to dupe members of the public into raising funds which are eventually used to support terrorist activity. We recommend that the Charity Commission be granted extra resources and stronger legal powers to counter the abuse of charities by terrorists. We also recommend that the Charity Commission be able to undertake unannounced inspections in order to audit their accounts. (Paragraph 134)
17. We welcome the Independent Reviewer of Terrorism Legislation's inquiry in to the impact of counter-terrorism legislation on charities and recommend that it be expanded to look at the scale of abuse of charitable status to support terrorist actions. We recommend that he assess the response to such abuse and suggest changes which will improve the ability of the authorities to tackle terrorist financing whilst ensuring that law-abiding charities can continue their vital work. (Paragraph 135)
18. The National Crime Agency was established as a national mechanism as part of the changing landscape of policing. Like all new organisations, it is still seeking to establish a strong identity and its own remit. For instance, we remain concerned that the NCA does not have full operational capacity in Northern Ireland. The Metropolitan Police have a wide remit which has many complexities and the current difficulties faced by the organisation lead us to believe that the responsibility for counter-terrorism ought to be moved to the NCA in order to allow the Met to focus on the basics of policing London. The work to transfer the command ought to begin immediately with a view to a full transfer of responsibility for counter-terrorism operations taking place, for example within five years after the NCA became operational, in 2018. When this takes place, it should finally complete the jigsaw of the new landscape of policing. (Paragraph 141)
19. Both members of the public and those in private enterprises have to ensure that vigilance is constant, this is especially important in areas where crowds of people congregate. Those in charge of areas visited by high numbers of people (such as shopping centres) must ensure that they have adequate security, surveillance and response plans. Ensuring public safety cannot be the sole purview of the counter-terrorism command and the security service, it is a responsibility in which all UK citizens and companies take a share. We note that the British Council of Shopping Centres have updated their guidance following the Westgate attack. We recommend that all police forces ensure that local shopping centres have received this guidance and put in place and test a Response Plan. (Paragraph 144)

Oversight of the security and intelligence agencies

20. We do not believe the current system of oversight is effective and we have concerns that the weak nature of that system has an impact upon the credibility of the agencies accountability, and to the credibility of Parliament itself. The scrutiny of the work of the security and intelligence agencies should be not the exclusive preserve of the Intelligence and Security Committee. Whilst we recognise the importance of limiting the access to documents of a confidential nature, we believe that as the relevant departmental select committee, we ought to be able to take oral evidence from the head of the security service. Engagement with elected representatives is not, in itself, a danger to national security and to continue to insist so is hyperbole. There are questions about the accuracy of information provided to the House by the security and intelligence agencies in the past, particularly in 2003. As future decisions on warfare look likely to be determined by votes of the members of the House of Commons, there is heightened importance in ensuring that the House is accurately informed in future. (Paragraph 157)
21. Furthermore we recommend that the Commons membership of the Intelligence and Security Committee should be elected like other select committees and that the Chair, who should always be a member of the Commons, ought to be subject to election of the whole House, as is the case for Select Committees. We further recommend that the Chair should always be a member of the largest opposition party. (Paragraph 158)
22. The Investigatory Powers Tribunal is the only body which can investigate individual complaints against the security and intelligence agencies and actions taken under the Regulation of Investigatory Powers Act. It ought to command public confidence in its actions. For there to be public confidence there must first be public understanding of the work of the Tribunal. We recommend that the if the Investigatory Powers Tribunal are unwilling to voluntarily produce a detailed annual report on their work, that legislation be amended so that they are required to do so. Such an annual report should, at the very least contain the number of cases it has received and the outcome of cases determined in that year with comparable data for the previous four years. We also recommend that the data be broken down to show which agency the complaint was against. (Paragraph 162)
23. It is unacceptable that there is so much confusion around the work of the Intelligence Services Commissioner and the Interception of Communications Commissioner. We recommend that as a matter of urgency data is collected on how many applications there were under the Regulation of Investigatory Powers Act and how many people were subsequently subject to an application. Furthermore, the fact that the Intelligence Services Commissioner cannot tell us what percentage of consolidated guidance cases or disciplinary proceedings he has examined is concerning. (Paragraph 166)
24. We have serious doubts that either the Interception of Communications Commissioner role or the Intelligence Services Commissioner role should be part-time. We are also concerned that the extent of the Intelligence Services Commissioner's staff is one personal assistant. The fact that less than 10% of

warrants which allow intrusion in to the private lives of individuals are examined is concerning—we believe this figure ought to be at least 50%, if not higher. We recommend that the Commissioners are made full-time positions and that their resources are increased to allow them to examine half of the requests for information. (Paragraph 167)

25. All parts of the oversight system need to do more to improve public confidence in their work. We recommend that each of the Commissioners and the Investigatory Powers Tribunal develop an outreach strategy which ought to be published as part of their annual reports along with details of how they have tried to fulfil the objective of improving knowledge of their work. (Paragraph 168)
26. The security and intelligence agencies are staffed by brave men and women who in many cases risk their lives to protect this country. They deserve our gratitude and they deserve to be honoured for their work. The best way to honour them is by ensuring that there are no questions about their integrity and, in order to prove this, there must be adequate scrutiny of their actions. The current system of oversight belongs to a pre-internet age, a time when a person's word was accepted without question. What is needed is a scrutiny system for the 21st century, to ensure that sophisticated security and intelligence agencies can get on with the job with the full confidence of the public. (Paragraph 170)
27. It is essential that the legal position be resolved clearly and promptly. It is currently unclear whether CSPs are obliged to store communications data as they were previously, or indeed if they are allowed to, because of the Data Protection Act. It is also unclear if the Home Office will continue to pay CSPs for their work on communications data. (Paragraph 174)
28. Given the criticism which the Regulation of the Investigatory Powers Act is subject to, we believe that the legislation is in need of review. We recommend that a Joint Committee of both Houses of Parliament should be appointed in order to hold an inquiry with the ability to take evidence on the Act with a view to updating it. This inquiry would aim to bring the Regulation of Investigatory Powers Act up to date with modern technology, reduce the complexity (and associated difficulty in the use of) the legislation, strengthen the statistical and transparency requirements and improve the oversight functions as are set out in the current Act. We recommend that the inquiry address the areas of concern raised with us concerning communications data and the oversight of Section 94 of the Telecommunications Act 1984. (Paragraph 177)

Formal Minutes

Wednesday 30 April 2014

Members present:

Rt Hon Keith Vaz, in the Chair

Nicola Blackwood
James Clappison
Mr Michael Ellis
Paul Flynn

Lorraine Fullbrook
Dr Julian Huppert
Mark Reckless
Mr David Winnick

Draft Report (*Counter-terrorism*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 95 read and agreed to.

Paragraph 96 read, as follows:

The withdrawal of passports is a vital tool in preventing UK citizens from travelling to foreign conflicts. We understand the need to use the prerogative power to withdraw or withhold a citizen's passport. Given that the estimates of foreign fighters are in the low hundreds, we are surprised that it has only been used 14 times since April 2013 and recommend that, in all appropriate circumstances where there is evidence, the power is utilised as an exceptional preventative and temporary measure. However, we note that its use is not subject to any scrutiny external to the executive. We recommend that the Home Secretary report quarterly on its use to the House as is currently done with TPIMs and allow the Independent Reviewer of Terrorism Legislation to review the exercise of the Royal Prerogative as part of his annual review.

Amendment proposed, in line 8, to leave out from 'TPIMs' to the end of the paragraph.—(*Lorraine Fullbrook*)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 3
Mr James Clappison
Michael Ellis
Lorraine Fullbrook

Noes, 5
Nicola Blackwood
Paul Flynn
Dr Julian Huppert
Mark Reckless
David Winnick

Question accordingly negatived.

Paragraph agreed to.

Paragraphs 97 to 140 agreed to.

Paragraph 141 read, as follows:

The National Crime Agency was established as a national mechanism as part of the changing landscape of policing. Like all new organisations, it is still seeking to establish a strong identity and its own remit. For instance, we remain concerned that the NCA does not have full operational capacity in Northern Ireland. The Metropolitan Police have a wide remit which has many complexities and the current difficulties faced by the organisation lead us to believe that the responsibility for counter-terrorism ought to be moved to the NCA in order to allow the Met to focus on the basics of policing London. The work to transfer the command ought to begin immediately with a view to a full transfer of responsibility for counter-terrorism operations taking place, for example within five years after the NCA became operational, in 2018. When this takes place, it should finally complete the jigsaw of the new landscape of policing.

Amendment proposed, in line 4, to leave out from ‘Ireland’ to the end of the paragraph and add:

‘It may be that in due course, the National Crime Agency should take over overall responsibility for counter-terrorism; however, we believe it would be wise to first see how this newly formed organisation carries out its responsibilities. Moreover, we endorse the remarks by David Anderson that a pretty good operational relationship exists between the police and intelligence. In addition, we also note the remarks of Sir David Omand over the existing arrangements.’—(*Mr David Winnick*.)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 5
Paul Flynn	Nicola Blackwood
David Winnick	Michael Ellis
	Lorraine Fullbrook
	Dr Julian Huppert
	Mark Reckless

Question accordingly negatived.

Paragraph agreed to.

Paragraphs 142 to 157 agreed to.

Paragraph 158 read, as follows:

Furthermore we recommend that the Commons membership of the Intelligence and Security Committee should be elected like other select committees and that the Chair, who should always be a member of the Commons, ought to be subject to election of the whole House, as is the case for Select Committees. We further recommend that the Chair should always be a member of the largest opposition party.

Amendment proposed, to leave out from the beginning of the paragraph to ‘We’ in line 4.—(*Lorraine Fullbrook*.)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 1	Noes, 7
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Lorraine Fullbrook

Nicola Blackwood
James Clappison
Michael Ellis
Paul Flynn
Dr Julian Huppert
Mark Reckless
David Winnick

Question accordingly negatived.

Another amendment proposed, in line 4, to leave out ‘We further recommend that the Chair should always be a member of the largest opposition party’.—(*Lorraine Fullbrook*.)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 4
Nicola Blackwood
James Clappison
Michael Ellis
Lorraine Fullbrook

Noes, 4
Paul Flynn
Dr Julian Huppert
Mark Reckless
David Winnick

Whereupon the Chair declared himself with the Noes.

Question accordingly negatived.

Another amendment proposed, in line 5, after ‘party’ to insert ‘, and not a former Minister with responsibility for any of the agencies’.—(*Dr Julian Huppert*.)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 4
Paul Flynn
Dr Julian Huppert
Mark Reckless
Mr David Winnick

Noes, 4
Nicola Blackwood
James Clappison
Michael Ellis
Lorraine Fullbrook

Whereupon the Chair declared himself with the Noes.

Question accordingly negatived.

Paragraph agreed to.

Paragraphs 159 to 168 agreed to.

Paragraph 169 read.

Amendment proposed, at the end, to add:

‘While there has been much controversy over the leaked Snowden material in the Guardian and elsewhere, it is undeniable that the revelations of such widespread surveillance, including for that matter the hacking of mobile phones of very senior members of

governments, including the German Chancellor, has understandably opened a wide and international public debate, not least in the United States, on whether such extensive surveillance, and on such a scale, should take place. If anything, media outlets, including the Guardian, that have responsibly reported on aspects of the material should be congratulated. We note that the paper received the Pulitzer Prize this year for its reporting on these issues.’—(*Mr David Winnick*)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 3
Paul Flynn
Dr Julian Huppert
David Winnick

Noes, 4
Nicola Blackwood
James Clappison
Michael Ellis
Lorraine Fullbrook

Paragraph agreed to.

Paragraphs 170 to 177 agreed to.

Annexes agreed to.

Resolved, That the Report be the Seventeenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 6 May at 2.30 pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2010/co-ordinating-the-fight-against-international-terrorism/?type=2#pnlPublicationFilter>

Tuesday 4 June 2013

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Cressida Dick, Assistant Commissioner, Metropolitan Police Ev 1

Cressida Dick, Assistant Commissioner, Metropolitan Police (*private*)

Tuesday 12 November 2013

Graham Eadie, Head of Customer Service Centre, G4S Care and Justice Services, **Paul Fernley**, Customer Support Manager, G4S Monitoring Technologies Limited, and **Kim Challis**, CEO, G4S Government and Outsourcing Solutions (*held in private and redacted for publication*) Ev 8

David Anderson QC, Independent Reviewer of Terrorism Legislation Ev 10

Charles Farr, Director General, Office for Security and Counter-Terrorism, Home Office Ev 18

Tuesday 3 December 2013

Alan Rusbridger, Editor, The Guardian Ev 31

Sir Bernard Hogan-Howe, Metropolitan Police Commissioner and **Cressida Dick**, Assistant Commissioner, Metropolitan Police Ev 44

Tuesday 14 January 2014

Cerie Bullivant Ev 55

Nigel Inkster, International Institute for Strategic Studies, former Director of Operations, Secret Intelligence Service (MI6) Ev 61

Shiraz Maher, Senior Research Fellow, International Centre for the Study of Radicalisation, King's College London Ev 67

Tuesday 28 January 2014

Gilles de Kerchove, EU Counter-Terrorism Co-ordinator, Council of the European Union Ev 71

Jean-Paul Laborde, UN Counter-Terrorism Committee Executive Directorate, United Nations Ev 77

Tuesday 11 February 2014

Dr Thomas Hegghammer, Director of terrorism research, Norwegian Defence Research Establishment Ev 83

Professor Sir David Omand, former Head, GCHQ Ev 88

Sir Anthony May, Interception of Communications Commissioner, and **Joanna Cavan**, Chief Inspector, Interception of Communications Commissioner's Office Ev 97

Tuesday 25 February 2014

Richard Barrett CMG OBE, Senior Director for Special Projects, Qatar International Academy for Security Studies and The Soufan Group Ev 103

Tuesday 18 March 2014

Rt Hon Sir Mark Waller, Intelligence Services Commissioner Ev 109

Rt Hon David Davis MP and **Nick Pickles**, Big Brother Watch Ev 116

James Brokenshire MP, Minister for Security and Immigration Ev 121

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2010/co-ordinating-the-fight-against-international-terrorism/>

INQ numbers are generated by the evidence processing system and so may not be complete.

- 1 CST ([INQ0001](#))
- 2 Metropolitan Police ([INQ0002](#))
- 3 Metropolitan Police supplementary ([INQ0003](#))
- 4 Foreign and Commonwealth Office ([INQ0004](#))
- 5 Home Office ([INQ0005](#))
- 6 Home Office Supplementary ([INQ0006](#))
- 7 Home Office Main submission ([INQ0007](#))
- 8 Home Office Further supplementary ([INQ0008](#))
- 9 Home Office Further supplementary ([INQ0009](#))
- 10 Home Office Further supplementary ([INQ0010](#))
- 11 Professor Clive Walker ([INQ0011](#))
- 12 Professor Sir David Omand ([INQ0012](#))
- 13 Chairman Peter T King ([INQ0013](#))
- 14 Tom Keatinge ([CTE0014](#))
- 15 Henry Jackson Society ([CTE0015](#))
- 16 Financial Conduct Authority ([CTE0016](#))
- 17 David Anderson Q.C. ([CTE0017](#))
- 18 David Anderson Q.C. Supplementary ([CTE0018](#))
- 19 Charity Finance Group ([CTE0019](#))
- 20 Privacy International ([CTE0020](#))
- 21 Google, Facebook, Yahoo!, Twitter and Microsoft ([CTE0021](#))
- 22 Charity Commission ([CTE0022](#))
- 23 Roger Bennett ([CTE0023](#))
- 24 Guardian Media Group ([CTE0024](#))
- 25 Birnberg Peirce & Partners ([CTE0025](#))
- 26 ARTICLE 19 ([CTE0026](#))
- 27 Quilliam ([CTE0027](#))
- 28 Sir Anthony May, Interception of Communications Commissioner ([CTE0028](#))
- 29 Ministry of Defence ([CTE0029](#))
- 30 Sir Mark Waller, Intelligence Services Commissioner ([CTE0030](#))
- 31 Metropolitan Police supplementary ([CTE0031](#))
- 32 Guardian Media Group supplementary ([CTE0032](#))
- 33 Claystone Associates ([CTE0033](#))
- 34 Gilles de Kerchove, EU Counter-Terrorism Coordinator ([CTE0034](#))
- 35 Paul Laborde, UN Counter-Terrorism Committee Executive Directorate ([CTE0035](#))
- 36 Sir Mark Waller, Intelligence Services Commissioner ([CTE0036](#))

- 37 Sir Mark Waller, Intelligence Services Commissioner supplementary ([CTE0037](#))
- 38 Susan Cobb, Private Secretary, Intelligence Services Commissioner ([CTE0038](#))
- 39 Uthman Lateef ([CTE0039](#))
- 40 Tom Keatinge supplementary ([CTE0040](#))
- 41 Home Office supplementary ([CTE0041](#))
- 42 Rt Hon Sir Malcolm Rifkind MP ([CTE0042](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/publications/>

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First Report	Police and Crime Commissioners: Register of Interests	HC 69
Second Report	Child sexual exploitation and the response to localised grooming	HC 68
Third Report	Leadership and standards in the police	HC 67
Fourth Report	The work of the UK Border Agency (Oct–Dec 2012)	HC 486
Fifth Report	E-crime	HC 70
Sixth Report	Police and Crime Commissioners: power to remove Chief Constables	HC 487
Seventh Report	Asylum	HC 71
Eighth Report	The work of the UK Border Agency (Jan–March 2013)	HC 616
Ninth Report	Pre-Lisbon Treaty EU police and criminal justice measures: the UK's opt-in decision	HC 615
Tenth Report	Leadership and Standards in the Police: follow-up	HC 756
Eleventh Report	Khat	HC 869
Twelfth Report	Drugs: new psychoactive substances and prescription drugs	HC 819
Thirteenth Report	The work of the Permanent Secretary	HC 233
Fourteenth Report	The Government's Response to the Committees' Reports on the 2014 block opt-out decision	HC 1177
Fifteenth Report	The work of the Immigration Directorates (April–September 2013)	HC 820
Sixteenth Report	Police and Crime Commissioners: Progress to date	HC 757

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Second Report	Work of the Permanent Secretary (April–Dec 2011)	HC 145
Third Report	Pre-appointment Hearing for Her Majesty's Chief Inspector of Constabulary	HC 183
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Fifth Report	The work of the UK Border Agency (Dec 2011–Mar 2012)	HC 71
Sixth Report	The work of the Border Force	HC 523
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Eleventh Report	Independent Police Complaints Commission	HC 494
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Fourteenth Report	The work of the UK Border Agency (July-Sept 2012)	HC 792

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First Report	Immigration Cap	HC 361
Second Report	Policing: Police and Crime Commissioners	HC 511
Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587
Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
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Ninth Report	The work of the UK Border Agency (November 2010-March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union	HC 789
Eleventh Report	Student Visas – follow up	HC 1445
Twelfth Report	Home Office – Work of the Permanent Secretary	HC 928
Thirteenth Report	Unauthorised tapping into or hacking of mobile communications	HC 907
Fourteenth Report	New Landscape of Policing	HC 939
Fifteenth Report	The work of the UK Border Agency (April-July 2011)	HC 1497
Sixteenth Report	Policing large scale disorder	HC 1456
Seventeenth Report	UK Border Controls	HC 1647
Eighteenth Report	Rules governing enforced removals from the UK	HC 563
Nineteenth Report	Roots of violent radicalisation	HC 1446
Twentieth Report	Extradition	HC 644
Twenty-first Report	Work of the UK Border Agency (August-Dec 2011)	HC 1722

Oral evidence

Taken before the Home Affairs Committee on Tuesday 4 June 2013

Members present:

Keith Vaz (Chair)

Nicola Blackwood
Mr James Clappison
Michael Ellis
Lorraine Fullbrook
Steve McCabe

Bridget Phillipson
Mark Reckless
Chris Ruane
Mr David Winnick

Examination of Witness

Witness: **Cressida Dick**, Assistant Commissioner, Metropolitan Police, gave evidence.

Q1 Chair: Our witness is the Assistant Commissioner for the Metropolitan Police, Cressida Dick. Thank you very much for coming, Assistant Commissioner. The Committee is due to start a major inquiry into international terrorism and crime. As a prelude to the inquiry we have asked you to come before us today to give us some factual information concerning the recent events in Woolwich. Many members of the Committee were present in the House yesterday when the Prime Minister made a statement to the House saying that you are responsible for the operational matters, so that is why you are here. Mr Speaker also made a statement to the House about the sub judice rule, which I will repeat today for the members and others present. Mr Speaker said this: “it is clear that the public interest means that this is a matter that Parliament must discuss, and in respect of which I should indeed exercise my discretion”. I have already reminded members in private session that they and I will frame our remarks accordingly.

Assistant Commissioner, the whole country was deeply shocked by the events that occurred in Woolwich in the last few weeks. Could I pass on to you, and I would be grateful if you would pass on to the police officers and others involved, our thanks and gratitude for their immense bravery and courage, and the dedication of those officers in dealing with what was a very, very serious incident? I would be most grateful if you would pass that on from the Committee as a whole.

Cressida Dick: Thank you, Sir. I will.

Q2 Chair: When were you first involved in the incident?

Cressida Dick: I was informed a matter of a few minutes later, and I subsequently became the lead for the Metropolitan Police in relation to the total response to this incident and indeed, because of my national role, the national lead.

Q3 Chair: Was it clear right at the start that this was a possible act of terrorism, as opposed to just a murder—a barbaric murder, as we have heard? When did you discover that it was an act of terrorism?

Cressida Dick: It was clearly an act of appalling murder of a young man. If you would indulge me just

for one second, I want to say that the thoughts of the whole police service have been and are with Lee’s family, his loved ones and his colleagues, and we have been very struck by the dignity and courage that they have shown since he was killed.

Chair: Of course, and the Committee associates itself completely with the comments that you have made concerning the family of Drummer Lee Rigby.

Cressida Dick: Thank you. There were a number of indications, some of which are probably not appropriate for me to talk about, at a fairly early stage that this could be a terrorist incident. As I think you are aware, the Counter Terrorism Command quickly took command of the investigation, and we have treated it as a terrorist incident since that time.

Q4 Chair: Could you give us some factual information about how many officers have been involved, how many are still involved, and how many people have been arrested? We know that two have been charged, but are there some factual points that you can give this Committee?

Cressida Dick: I can. At its peak, I believe we had about 600 officers employed directly on the investigation. There is another response in our communities, but 600 directly on the investigation. This includes nearly 100 from our national counter-terrorist network. As I think you are aware, we have arrested a total of 12 people, and two men have been charged, as you said, and subsequently remanded in custody. We have searched 17 addresses and six cars. We have seized 2,649 exhibits as of yesterday. We have had a fantastic response from the public, and we have taken statements from 60 members of the public who are significant witnesses for us. We have also, of course, gathered in a very large amount of CCTV from the local area and elsewhere, and we have an enormous of digital data and forensic material to be examined.

Q5 Chair: Of the 12 people who have been arrested, two have been charged. Is it right that eight have been bailed and two have been released without bail?

Cressida Dick: Yes, that is correct.

Q6 Chair: So, the two who have been released without bail presumably are not people whom you wish to interview again at the moment. How did they get caught up in this?

Cressida Dick: They are released; no further action.

Q7 Chair: Regarding the public's response and the police response, which we both agree has been magnificent in providing information, and drawing a parallel with Boston and what happened there, there was a media storm about what occurred; there is no doubt about it. It was obviously something that everyone in the country, and indeed the world, knew about. Do you think that the response of the police was right, in terms of the information that was given, not just in respect of this particular incident but incidents of this kind? I am talking about the naming of suspects. Do you think that should have been done perhaps sooner, or was it the right time to have named them?

Cressida Dick: On balance, I think we got our information out in a timely manner, and effectively. Our primary consideration is public safety. Throughout our whole response we have to try to ensure that the public are kept safe. We also have to keep people informed, and of course part of keeping people safe is keeping them informed. We also have to be very careful not to compromise any future trial—and as you know the Attorney General has made some strong comments about that—and our covert investigations. On the one hand I am very proud that I do not think there has been any leaking from our investigation at all, and we have kept the wider public safe. On the other hand, the Commissioner was speaking that evening, and we subsequently had an assistant commissioner the next day, another assistant commissioner the next day, other police officers in the interim, and my deputy talking about the investigation on the Monday. More importantly perhaps in some ways, we communicate through our officers on the streets. As you are aware, we had a huge number of officers engaging through a variety of different methods—social media, telephone calls and face to face—with people who might feel vulnerable and people who needed protection, because clearly, as well as the investigation, we have to ensure that people are protected from potential copycats.

Q8 Chair: Are you happy with the way in which the suspects were named?

Cressida Dick: I am happy with our police information-giving. I am sure there may be some things we could learn from Boston, and indeed our colleagues from Boston are over with us next week, and they will want to know what we did. There is always something we can learn.

Q9 Chair: Indeed. Finally from me, on the issue of the security services—we do not want to know about private conversations or private information—is this a Metropolitan Police investigation, with you at its head as the head of counter-terrorism, or is it an investigation that is being jointly conducted with the security services, or has their role in a sense come to

an end, and this is a fully fledged Met Police investigation into terrorism as opposed to a murder?

Cressida Dick: This is a police investigation into what happened on that day, police-led and very strongly supported by the security services and other agencies, as you would expect.

Chair: But it is your investigation?

Cressida Dick: It is our investigation.

Q10 Chair: And you will go to other agencies that might be able to assist you?

Cressida Dick: Absolutely. Clearly we need, and have needed from the first moment, to ensure that we identify those responsible for the murder and bring them to justice, but we also wanted, and want, to identify anyone else who might seek to commit a copycat or revenge attack. We have to ensure also that we have identified whether there was anybody else involved in the planning or at the scene of the attack. I can say we have established that at the moment we have no evidence that there was anybody else present at the scene of the attack.

Q11 Chair: In terms of lessons to be learned, one of the key lessons that we are all learning when we read our newspapers and watch television is the number of British citizens who may be going abroad to get involved in activities of an unsavoury nature. They may go abroad to join terrorist organisations, to support various causes, be it in Kenya, Somalia, Syria or Iraq. Do you think that you in the Met, and perhaps you as head of counter-terrorism, have sufficient information from our posts abroad about those who may be up to no good in those countries, who eventually find their way back into this country? This may or may not be relevant to this particular case. I am not asking whether your investigation takes you to Nairobi in this case, but generally speaking, if we are learning immediate lessons, how would you be told that somebody has been, for example, arrested in Iraq and involved in unsavoury activities and then returned to this country, if they are a British citizen? Is there a mechanism?

Cressida Dick: I will talk generally.

Chair: Yes, please.

Cressida Dick: Of course it depends on where, and what circumstances we are talking about, but the point you make is that it is extraordinarily important that we are able to link quite literally the person on the street anywhere in London with some very far-flung place, and we do that through our network, a police network that is national and international, through our colleagues at the Foreign Office and supported by our agency colleagues. You have read about Syria. We are frequently informed about people from the UK who have travelled to, and appear to be engaged in fighting in, Syria. I am sure that, as you say, one of the areas that everybody will want to look at is how we get the intelligence back, and then what response we make if we are aware of that sort of thing, but I must stress that there are a lot of different circumstances here.

Q12 Chair: Of course, but given that this is in the public domain and we want to learn lessons immediately, because the person planning the next

4 June 2013 Cressida Dick

terrorist attack is probably doing it at this moment somewhere in the country, are you satisfied that if a British citizen in Iraq has been arrested by the Iraqi regime for getting involved in paramilitary or military activity and they are deported back to the UK, the Metropolitan Police would know about it?

Cressida Dick: If somebody was arrested in the precise circumstances you have described and was deported back to the UK, I am confident that the Met would know about it, but I must say that depending on the environment one might not know that someone has even been arrested. It depends entirely on the circumstances.

Chair: It depends whether that information is with you. Thank you very much for that.

Q13 Mr Winnick: The Chair mentioned the bravery of the police officers, which of course we all endorse. I am sure you would agree about the bravery of the civilian women on the spot, and one in particular, who faced the alleged offender. I think the whole country was full of admiration for what was done.

Cressida Dick: Extraordinary courage was shown that afternoon.

Q14 Mr Winnick: All organisations would say that they would like more funding—that is perfectly clear—but as far as the Metropolitan Police is concerned, do you feel that there are sufficient resources, first and foremost obviously financial, to combat the ongoing threat of terrorism?

Cressida Dick: I think it is important to note that under this Government, and indeed the last Government, there has been a very heavy investment in countering terrorism within policing and of course beyond. I have previously gone on record to say that we believe we have a formidable capability, and that formidable capability, together with our security service colleagues, has stopped a large number of lethal, murderous attacks in this country. I feel that immediately after an incident with the horrible impact and magnitude of this one is not the time immediately to say, “We need more resources.” I think we should look soberly at what needs to change, and then see if more resources are needed. I am very conscious that counter-terrorist policing is well resourced.

On the other hand, as I and many other people, including the Home Secretary, have said, the threat is very real. The country remains at the threat level of “substantial”, and we have to deal with a threat that comes from a very wide range of sources, some of which are external—the Chair has mentioned some countries where people might pose a threat to the UK or UK interests. Sadly, we have a long history of what you might call home-grown terrorists. An attack is a strong possibility. We have a big, changing, morphing threat to deal with, but I am not going to say at this time that the answer is more resources for the police.

Q15 Mr Winnick: On the profile of the Met, one of your colleagues said—it received a good deal of prominence—that much more needs to be done for the Met to reflect the sort of place that London is now, not only because it is right, he argued, but because it is essential in the fight against terrorism. The Met has

the highest number of non-white police personnel. I believe it is somewhere in the region of just over 10%.

Cressida Dick: Exactly.

Mr Winnick: Would I be right in coming to the conclusion that the most senior people, including you, take the position that much more needs to be done to increase the numbers, and that 10% in a city like London is unsatisfactory, and certainly unrepresentative?

Cressida Dick: In relation to countering terrorism, we broadly reflect the Met, and, as you said, in relation to black and minority ethnic officers—as opposed to our other staff, where the percentages are much higher—we are about 10%. That is well off the level for London, and although we do have a formidable capability and some very skilled people doing great work, I believe that in countering terrorism and in broader policing we would be even more effective, of course, if we were more reflective of London. We are about to launch a recruiting exercise where a very high priority for us is to increase the representation of black and minority ethnic colleagues in our service. I do believe it will help.

Q16 Mr Winnick: One last question—and I am one of the Members who keep to that “last”—on the ongoing terrorist threat: do you take the view with your colleagues that this is going to be a long-term matter, and that it is not going to be resolved? Properly, this is connected with international terrorism generally; it is not unique to Britain. Do you think this will continue for some years to come?

Cressida Dick: I regret to say that I absolutely do. I think we are in for a long haul.

Q17 Chair: On Mr Winnick’s question about diversity—and of course senior officers have said this to this Committee over all the years that I have chaired it—Peter Fahy went further this morning when he said that if the make-up of the police changed, it would help the police in dealing with counter-terrorism. He said that the police are not as effective as they could be in countering terrorism because of the ethnic make-up. Do you agree with Peter Fahy that you would be much better at dealing with these issues if you had more Muslim and black people in the police force? He has gone further than others.

Cressida Dick: He is one of my vice-chairs. I speak to him every other day. We see these issues very similarly, and I think I have said pretty much the same thing. I think we have a very effective service, and some incredibly skilled people—they do great work—but we would be even more effective if we had more people with certain language skills and were more reflective of London’s communities, yes.

Q18 Michael Ellis: Assistant Commissioner, I would like to join those who have already commended the exemplary bravery and conduct of everyone at the scene, including the armed officers who arrived. We have seen video footage of the situation that they had to deal with instantly at the scene. Can I ask you about the response times of the police, and about the command and control at the local level before the situation escalated to your level? At this stage, are you

happy, from what you have assessed, that local officers, as well as armed officers, were able to respond expeditiously in all the circumstances?

Cressida Dick: I am very mindful of the fact that the Independent Police Complaints Commission are looking at various aspects of our response at the time, and I would not want to take anything away from their investigation, but I must say that I do believe our response was very, very good. I cannot possibly put myself in the shoes of the people who were at that horrific scene—completely traumatised, many of them, I am sure, by what had happened—waiting for the police to arrive, but what I can say is that in terms of both our unarmed response and our armed response, despite the fact there was some inaccurate reporting in the media to start with, we were within our response times that we would expect. Of course we will see what the IPCC say, but I am very comfortable with that.

On the basis of what I know, I am also very comfortable with the command and control. As soon as the call came in saying that somebody had knives and a gun, the armed response vehicle was deployed, and I believe that in the intervening minutes there was very strong command and control in the way that we would expect, in the way that we train for.

Q19 Steve McCabe: Commissioner, how do you go about defining a horrific incident like this as a terrorist incident? In your judgment, what are the main ingredients that make it a terrorist incident?

Cressida Dick: As I said, there are some things that it is difficult for me to say at this stage because matters are sub judice.

Chair: We understand that. Any of the public reasons would be fine. We can keep the confidential reasons to the private session; but publicly, so people can understand.

Cressida Dick: One of the indicators for us at an early stage was some of the words that were used at the scene and captured on social media—the comments that were made. There are a number of other things that made us think that we must respond to it as though it was a terrorist incident, and we are treating it as a terrorist incident.

Q20 Chair: Is it similar to when there is a racist attack? It was once defined as somebody who goes forward and makes racist comments, and therefore you classified it for the purposes of policing as a racist attack.

Cressida Dick: Yes, it is very similar. It is not exactly the same, because if we just had one indicator, like somebody said, “I think it might be terrorism”, there are circumstances in which it would be inappropriate for the whole of the counter-terrorism machinery to come out. It depends on a number of different circumstances, but absolutely it is much better to assume that it is and investigate it thus, with all the elements that a terrorist investigation would have, than to decide late in the day that it might have been.

Q21 Chair: Of course it is in the public domain what the individuals have been charged with, but the 12 arrests that you have made are presumably not under

the normal criminal law. Are you using terrorism legislation in order to arrest these people, or is it under the ordinary criminal law?

Cressida Dick: At this stage, everybody who has been arrested has been arrested under, as you say, the normal criminal law—under PACE. For example, some of the people on bail were arrested for conspiracy to murder using our PACE powers of arrest. Nobody has been arrested using specific terrorism legislation powers.

Q22 Chair: Is it a surprise, bearing in mind the fact that you have described it as, and the public believe it to be, a terrorist attack, that no terrorism legislation has been used?

Cressida Dick: It is a very definite decision, and I believe there are very good reasons for it. I am very content with the decision, but I could perhaps give two general points that might inform such a decision. The first general point is that if somebody is in hospital, our understanding is that if you arrest them at that stage under the terrorism legislation, the clock starts ticking, whereas it does not if you use the Police and Criminal Evidence Act. Secondly, as I expect the Committee is aware, under the terrorism legislation, we do not have any power to bail people.

Q23 Nicola Blackwood: I want to ask you a little bit about the backlash against the Muslim community. There was quite a lot of commentary about this in the immediate days following the incident, and particularly there were some figures quoted in the media, I think coming from Tell MAMA particularly, of 212 instances. More recently, there has been some coverage that questioned those figures, and that has said that perhaps up to 46% of those instances were online and a number of others were to be verified. What is your assessment of the backlash against the Muslim community here in the Met area, and do you have ongoing concerns?

Cressida Dick: To put a little bit of context around it, my job is not only to ensure that the investigation is done effectively, but also to ensure that we review the security posture in London and provide protection to those who need it. We also have a strategy of engaging and reassuring, and dealing robustly with hate crime and disorder, but also of course, where necessary, of facilitating events and protests. Sadly, in London, as you know, we have had terrorist attacks before, and we have seen hate crime—racist crime—increase in 2007, in 2005 and in 2001. We have again seen an increase in hate crime reported to us and, as you note, apparently reported to others.

What I would say about that is that every single one is horrible. Compared with some previous times, I think we have had slightly less, but I take nothing away from any of them. I am sure there is some low-level abuse going on that neither that organisation nor we are aware of, because people will not always report it, but what I can say is that the increase has been in fear and tension, certainly, but not such a very big increase in attacks as we might have feared. It seems to have started to reduce. There have been some horrible attacks on mosques, but as far as I am aware, we do not have any very serious assaults. If I were to

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summarise that, fear has certainly been up, tension between communities is certainly up, and it is a big job for the police to be out there protecting people and reassuring them. Hate crime was up afterwards. It is beginning to reduce now, and we hope it will continue to reduce. Meanwhile, we will robustly investigate every one that is reported to us.

Q24 Nicola Blackwood: Do you think that the reporting mechanisms are working effectively? Do you think that hate crime is being reported enough? You say that there are instances that you are not aware of, and that other organisations are not aware of. What is being done to increase reporting?

Cressida Dick: We have a number of officers whose whole job is to try to get out into communities, to encourage people, to help people to understand the kind of crimes that they should report and the kind of incidents that they should report. We have a number of specific mechanisms, through Tell MAMA and others—what we might call third-party reporting. I do believe—it is my professional opinion—that we are in a better position than we were a few years ago, and a higher proportion of the minority ethnic population and Muslim population feel that they know how to report, when to report and that they should report, and they feel more confident that we will do something about it, but I am sure that when we debrief the whole operation there will be other things that we could do in the future to assist with this.

Q25 Chair: Can you tell the Committee whether any of the 12 people arrested are going to be the subject of an application for TPIMs, or are any of them already subject to an order?

Cressida Dick: I could not possibly tell you that, I am afraid. That would not be appropriate.

Q26 Bridget Phillipson: You referred to the protests that have taken place more recently in London. Can you set out what assessment you have made of how the Met has responded to that, whether you are content with that response, and what additional pressures on resourcing that may have led to? As you described, you have had to dedicate a lot of officers to investigating the events that took place in Woolwich, and presumably some of the protests and counter-protests have placed an additional demand on the service.

Cressida Dick: Yes. As I said, on that night and subsequently we have tried to have extra officers out and about, ready to respond—for example at the scenes of arrests and searches—to any incidents, and constantly talking to people who wish to organise events, the vast majority of which have been extremely respectful and easy to support and police, as well as some other much larger-scale ones. We have tried to make really good use of our protest liaison officers in our communication with those event organisers. Some of them were at relatively short notice, some of them were quite large-scale, and some of them had potential to cause real concern in communities and/or be difficult for us to police. You will perhaps be aware that we had some big events on the first Saturday after Lee died, and again this last

weekend. On the last weekend, my colleague Mr Rowley used powers under section 12 and section 14 of the Public Order Act to move a particular protest from Woolwich to near here in Whitehall.

Across the country, as well, we have had a whole range of operations, and indeed protests and events. Overall, I think they have been policed very well, and I am very content with the way in which we have balanced people's right to protest with our duty to uphold the law and ensure that, as far as possible, the peace is kept. It does take a lot of officers and a lot of experience and skill. It is fair to say the Met has been going at a fair stretch since the 22nd, and many officers have worked extensive hours, day after day after day. What I can tell you is that every single one of them wants to do that. They all want to be involved.

Q27 Chris Ruane: Coming briefly back to the issue of diversity, in a previous evidence session we were informed by two senior black officers that they had concerns that the diversity of the black and ethnic community was not reflected currently in police forces. A charge of £1,000 to enter police college is now in place, and they felt—I echo their concerns—that this would work against young recruits from black and ethnic minorities and also from working-class council estates. People in those communities do not have £1,000 up front to put there. When was it introduced, and what is your assessment of its impact?

Cressida Dick: This is the Police Knowledge Certificate, which is becoming our prerequisite for joining the police. I can't on this case speak for other forces. What I can say is that we in the Met, from the moment it first came in, were acutely aware—

Q28 Chris Ruane: Which was when, approximately?

Cressida Dick: It is not my area of responsibility, and I would have to come back to you with the precise date; apologies for that. As a management board, when we were first briefed about this system, we wanted to try to make it as accessible as possible in all sorts of different ways, and we were very alert to the cost. One of the things we are looking at is whether we should look to have bursaries or to subsidise people in some way. I know that within some community organisations where they want to ensure that people they know—young people that they are proud of who would be good police officers—can become police officers, they are thinking about whether they would support people to go through this. I think it is fair to say that we are alert to the issue. We have not resolved precisely how we are going to deal with it, but we do want to support in a variety of different ways people who might be put off from joining the police to join the police.

Q29 Chris Ruane: Are you collecting the data before and after this charge was introduced to see if it has had an impact? If you are, could you perhaps relay that data to the Committee to see which social groups, and which religious and ethnic groups, have been adversely or positively affected by this?

Cressida Dick: If I can, I will. My difficulty is that I am not sure when it was introduced. I am absolutely sure we will be monitoring. I do not know how many

people have come through that system nationally and what data are available, but of course I shall look for the data. Bear in mind, of course, that many forces have not been recruiting.

Q30 Chair: Can we clear up a couple of points before we go into private session? First of all, it is in the public domain that the Metropolitan Police is providing some kind of protection to Anjem Choudary. Is that correct?

Cressida Dick: We constantly risk-assess what is going on around a number of different people who are very high-profile in the media. In the case of somebody like Mr Choudary, we are constantly assessing, of course, whether any of his proclamations are breaking the criminal law.

Chair: That was my next question.

Cressida Dick: We are working with the CPS to ensure that if he is breaking the criminal law, we deal with it very swiftly. I am not going to comment on what precisely we are doing with Mr Choudary. All I would say is that if we did fear that someone, anyone, whoever they may be, as a general point, had their life at risk, or indeed that there is going to be some sort of major disorder around them, we may put in place a variety of kinds of police presence to stop an assault.

Q31 Chair: It is reported that you are providing support. I understand why you do not want to tell the Committee in open session about it, but you are giving us a general point that in those circumstances, even though you may be considering prosecuting him, he may be someone whom you would risk-assess. Is that right? You can leave it as vague as that if you want to.

Cressida Dick: If there is ever information in the public domain that somebody might be assaulted, or their life may be at risk, we will always look at that and see if they are aware that this is the case. There are a variety of different things we can do, but if somebody's life is at risk, we do have a duty, whoever they may be, to ensure that they are not killed.

Q32 Chair: What worries some of us in the Committee is a report we produced last year into the roots of radicalism, in which we looked at the whole issue of proscription. He in particular has been involved with a number of groups—Islam4UK, al-Muhajiroun, the Call to Submission, Islamic Path, the London School of Sharia, the Saved Sect—and of course the organisations have been banned, but that does not stop individuals from being involved in other activities that are possibly inflammatory. Do you think that we need to look at the issue of proscription again and review the way in which we proscribe organisations? Suddenly, individuals and organisations pop up somewhere else with different names.

Cressida Dick: This is clearly a very difficult issue for legislators to deal with, and if it was easy, I am sure it would have been solved some time ago. It does cause a great deal of concern and frustration to us that precisely what you have described happens: people can move from group to group. A group can be proscribed, and then the name can be changed and it can be very difficult to prove any offences. I know

that in the Prime Minister's announcement it is clear that this sort of thing—what more legislation can do—is going to be looked at, and I certainly welcome that.

Q33 Chair: One of the areas is of course the internet. For example, this afternoon you can still go on the internet and see Anwar al-Awlaki give one of his speeches. Are you working with the internet service providers and the search engines like Google to try to get them to be more proactive, to try to stop such extremist material being put on the internet?

Cressida Dick: Yes. We have a unit called the Internet Referral Unit that is housed within the Metropolitan Police but has a national responsibility. They seek out and are informed about such material, and they work with providers to get that material taken down. As the internet changes, they are becoming more and more skilled at this. We are having very high volumes of extremist material taken off the internet. We are also trying to ensure that where it cannot be, for whatever reason, it does not find its way into what you might call the public estate—into libraries and that sort of thing. This is a developing field, quite clearly.

Q34 Chair: I am sure you are aware of what they are doing at Europol, which is monitoring all the websites throughout the whole of Europe. Presumably they are keeping you informed when they find a website that is particularly nasty.

Cressida Dick: Yes, and we do have some very good technology of our own as well.

Q35 Nicola Blackwood: There is quite a lot of debate about the role that the Communications Data Bill might play in situations such as the Woolwich murder. In your opinion, would the Communications Data Bill have been helpful in this instance or going forward in your work?

Cressida Dick: I do not think I can speculate as to the use of communications data to date in any investigation that has gone before. No doubt part of the Intelligence and Security Committee's deliberations will be to see what has happened. What I can say is that every single significant counter-terrorism investigation depends hugely on communications data, almost every murder investigation, going forward, depends hugely on communications data, and as each day goes by we are finding and fearing that our capability is beginning to degrade. I have put this on record before. It is clearly a matter for others to decide what is appropriate legislation, where the balance lies between what we need and say we want to do our work as effectively as we can and people's privacy. For us this is an incredibly important tool, and we use it all the time in counter-terrorism.

Q36 Steve McCabe: In these cost-conscious times, is there any limit to how much money you will spend on protecting individuals who invite trouble by their own behaviour and who, by their own statements, have nothing but contempt for the British state and the British police, and are therefore not very likely to co-operate with you?

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Cressida Dick: There is certainly a limit on the amount of protection we can give to anybody. Certainly when we are looking at what the intelligence is, what the issue is, what the risk is, and what should be done, one of our considerations very often is to talk to the individuals themselves about how they can protect themselves and how they can reduce their risk of harm, so costs do come into our decisions, absolutely.

Q37 Chair: At the moment, in respect of this inquiry, you have not had to go to the private sector to get any additional support, as you have done in some of the other Metropolitan Police investigations. This is all members of the Met, or those from other police forces. Is that right?

Cressida Dick: Yes, it is.

Q38 Chair: Just remind the Committee how many people you have working on this currently.

Cressida Dick: A couple of days ago we had 600. I think it has come down slightly from that. I can furnish the Committee with the latest number shortly after the meeting.

Chair: Assistant Commissioner, thank you very much for coming to give evidence today. We are most grateful. We are now going to go into private session with you, and we will clear the gallery of members of the public.

Tuesday 12 November 2013

Members present:

Keith Vaz (Chair)

Ian Austin
Mr James Clappison
Michael Ellis

Dr Julian Huppert
Yasmin Qureshi
Mr David Winnick

Examination of Witnesses

Witnesses: **Graham Eadie**, Head of Customer Service Centre, G4S Care and Justice Services, **Paul Fernley**, Customer Support Manager, G4S Monitoring Technologies Limited, **Kim Challis**, CEO, G4S Government and Outsourcing Solutions, gave evidence in private.

Chair: This is an informal session, but what you say will be part of our evidence. If there is anything confidential that someone wearing a tag could use, please feel free not to tell us, or when you see the transcript, redact it. You can be open and transparent, but if there is anything you do not want the world to know about—subject to certain limits—we are happy for it not to be made public. Would you like to tell us what you do for G4S? Ms Challis?

Kim Challis: I am the CEO for government and outsourcing. I report to Eddie Aston, who is the new regional CEO. I took on my post on 1 October last year. I am accountable for the Government portfolio that G4S has today.

Paul Fernley: I am a customer support manager, reporting into our monitoring technologies division in Leicester, which I believe you visited recently. My remit covers testing and approval of all the monitoring equipment; acting as an expert witness in court when the equipment is challenged or a breach occurs involving the equipment; educating and training stakeholders and people who use the electronic monitoring service; and managing our fleet of equipment.

Graham Eadie: I am the head of the customer service centre. I am the account manager for the TPIMs contract and also responsible for all the other high-profile subjects that we monitor at G4S.

Q53 Chair: Would you like to sit down?

We just want to know about the practicalities. It is not the Government relations angle we are after here; it is how the technology works. Who is able to tell us how a tag works?

Paul Fernley: I can do that. To refer back to your opening comment, a lot of what I say probably would not be something we would want people wearing tags to know the details of. Clearly there is a security aspect to some of that.

Chair: You will have to speak up a little. I know it's secret, but you don't have to stand. You can sit down; you just have to speak a little louder. The doors are very thick, so no one outside can hear.

Paul Fernley: Okay. So this is our GPS tracking device, which is used in the TPIMs contract. It is a multi-function device, which is attached to the subject's ankle in such a way that it cannot be removed without detection and without leaving behind evidence that can then be interrogated to show what has occurred to cause the damage. It uses several

different technologies in providing monitoring. First, it uses a GPS tracking system in much the same way as any satellite navigation system would, it accesses the satellite and positional data via GPS. [xxx]. It can also transmit any alerts and alarms in that way, so that if anyone interferes with it or cuts the strap, it can transmit an alarm immediately [xxx] to our systems to warn us of that.

[xxx].

It also has radio frequency, RF, capability, so if you want to monitor a subject within a home or a set location, you can install a monitoring unit in the property. The device also transmits radio frequency signals, which are received, as long as it is within the area you want it to be, by the monitoring unit. That provides an extra level of monitoring within a building.

In terms of tamper detection systems and capabilities, this uses proven technology which we have had in place in our equipment for many years now and which has proved to be extremely reliable and robust. [xxx]. We connect that to the opposite side and fix the strap to the ankle, [xxx]. Within two seconds, the device knows that somewhat has interfered with the integrity of the fixing.

Q54 Chair: How many people have G4S tags?

Paul Fernley: Of that type?

Q55 Chair: Just the TPIMs device.

Paul Fernley: Well, TPIMs is a separate, quite small contract¹.

Q56 Chair: The device, not the contract.

Paul Fernley: In total we have between 80 and 100 in the UK at the moment with that device.

Q57 Chair: That's it? Just 100?

Paul Fernley: Yes, but more worldwide.

Q58 Chair: This is the top-level model?

Paul Fernley: Yes, is the GPS multi-function device.

Q59 Chair: [xxx].

Paul Fernley: [xxx].

Q60 Michael Ellis: The fact of the matter is, though, that you do not set out to make these indestructible.

¹ Note by witness: It is not a separate contract, TPIM cases are managed as part of the wider MOJ contract.

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The issue is not whether the defendant or the suspect can get them off. The issue is: can it be detected if he or she does? [xxx].

Paul Fernley: I would really like to address that point, because it is very important. Obviously the design and manufacture of these devices are subject to very stringent conditions, laid down by the Home Office and the Ministry of Justice. We do not set the parameters for how we design them. They issue an extremely detailed and comprehensive specification for all electronic monitoring equipment, which the devices have to be tested to. In terms of strength, it is stringently laid down that the strap has to break [xxx].

Q61 Chair: [xxx].

Paul Fernley: [xxx].

Q62 Michael Ellis: Mr Fernley, isn't the point, though, that for safety reasons it is supposed to be able to be broken off in an emergency situation?

Paul Fernley: Absolutely, yes.

Q63 Michael Ellis: Presumably, you could make these much tougher, so that nobody could cut them off, but you deliberately don't.

Paul Fernley: We could, but if we did make them tougher, they would not meet the specification to which we have to conform. That specification would need to be altered. If it were, then yes, we could definitely make it harder to remove. You have to bear in mind situations like emergencies at hospitals: if someone wearing a tag is rushed into hospital and needs a CT scan or an operation, they have to be able to remove the tag, [xxx]. That is another reason why they have to be removable.

Q64 Mr Winnick: You told the Chair that about 100 people are wearing these at the moment?

Paul Fernley: Of this GPS one, yes.

Q65 Mr Winnick: Of that 100, nine would be subject to a terrorist order.

Paul Fernley: Eight or nine, yes.

Q66 Mr Winnick: And the rest? What categories would they be in?

Kim Challis: We supply mainly the offender management units within police forces. They may use them for volunteers for whom the police have found tagging an appropriate method of monitoring. For the police forces that make use of that kit—it varies, but we have between 60 and 80 devices—we only provide the equipment. We do not do any of the monitoring. We literally provide the equipment and they do the installation and the monitoring.

Q67 Ian Austin: Can you tell us on how many occasions these have been tampered with?

Kim Challis: [xxx].

Q68 Ian Austin: Is this across the 100 people or the 10?

Kim Challis: No, we are not aware of tamperers outside the TPIMs contract, because we are not responsible for monitoring.

Q69 Ian Austin: [xxx].

Kim Challis: [xxx].

Q70 Michael Ellis: [xxx].

Paul Fernley: [xxx].

Q71 Michael Ellis: [xxx].

Paul Fernley: [xxx].

Q72 Ian Austin: [xxx].

Paul Fernley: [xxx].

Q73 Chair: That is very helpful. As far as Mohammed Ahmed Mohammed is concerned, we have just received a letter from Eddie Aston, your regional CEO. [xxx].

Hon. Members: [xxx].

Q74 Chair: [xxx].

Paul Fernley: [xxx].

Q75 Chair: [xxx].

Graham Eadie: [xxx].

Q76 Michael Ellis: [xxx].

Paul Fernley: [xxx].

Q77 Chair: Who makes these tags apart from G4S? Presumably you are not the only company in the world that makes them.

Kim Challis: No. [xxx].

Q78 Chair: Very delicately put. There are no more market leaders in the UK, or is this worldwide?

Kim Challis: Worldwide.

Q79 Chair: But your involvement in this case ended by the time you told them that the tag had been tampered with.

Graham Eadie: That is not strictly true.

Q80 Chair: [xxx].

Graham Eadie: [xxx].

Q81 Chair: It is your property, but they are the client.

Graham Eadie: Yes. The protocol is that we do the reporting and the police take the enforcement action.

Q82 Chair: Do you know if it was cut in that case?

Graham Eadie: We know we got the tamper alert.

Q83 Chair: But you do not know what happened.

Paul Fernley: We know that the integrity of the strap was breached [xxx].

Chair: Excellent. Thank you so much for coming today. It has been very helpful.

Examination of Witness

Witness: **David Anderson QC**, Independent reviewer of terrorism legislation, gave evidence.

Q84 Chair: I welcome David Anderson QC, the independent reviewer of terrorism legislation, to the Committee. I refer everyone present to the Register of Members' Interests where the interests of members of this Committee are noted. I remind everyone that this is our inquiry into counter-terrorism, which is ongoing. Mr Anderson, thank you for coming. I think on previous occasions we had you down and then had to stand you down at short notice, but we are very grateful for your patience and kindness in coming in today.

Obviously, the situation regarding Mohammed Ahmed Mohammed has come into the public domain since we asked you to come in here. We do not want this to dominate the session, but there are questions we would like to ask you about it because, clearly, it will reflect on our view of the operations of the TPIMs and control orders and other issues of structure. You are the independent reviewer, and you have done a report into BX, who is, of course, Ibrahim Magag. Does it concern you that, for those watching from outside, we seem to have lost our touch as far as monitoring counter-terrorism issues are concerned? Here are these people just disappearing without people knowing where they are. Is there a real fundamental problem with the way in which we administer the counter-terrorism policy?

David Anderson: It obviously is a concern that, of 10 people who have been subject to TPIMs, two have absconded—in fact, two have absconded in the past year. They are not, of course, the first to abscond: there were others who absconded before mid-2007 who were under control orders. In the intervening period, we managed five and a half years without any absconds at all. Of course, any abscond is a concern, but I think it is important to appreciate what it is that TPIMs can do and what they cannot. What they are not is a foolproof way of keeping the population safe from terrorists. The only foolproof way that I know of doing that is to lock everybody whom the Home Secretary believes might be dangerous in a high security prison and leave them there for the rest of their lives. Thankfully, that is not the sort of country we live in.

The other thing that they are not is a measure that can last indefinitely. We would all very much like to see people who are believed to be dangerous safely out of harm's way for a very long time, but that just is not feasible in circumstances where they have not been convicted of any criminal offence, and in circumstances where, although the courts do have to look to see whether the Home Secretary's belief is a reasonable one, they do not have to be persuaded, even on a balance of probabilities, that that person has been a terrorist. We are stuck with this perhaps slightly unhappy compromise. Of its nature, it is not a measure that is entirely secure, but on the other hand, they have been very useful in disrupting terrorism and in preventing terrorism activity taking place.

Q85 Chair: Yes. You are telling this Committee that they are not as good as control orders because of the powers that control orders have?

David Anderson: I am not going to say good or bad, but I think they are significantly different from control orders.

Q86 Chair: But they are not as effective as control orders?

David Anderson: There are some differences between control orders and TPIMs that I think have had an impact on the effectiveness of the measure. The main one is the question of relocation. During that period, June 2007 to December 2012, when there were no absconds, quite a high proportion of those controlled persons were—horrible phrase—relocated away from the towns where they lived to other towns, usually two or three hours apart. Of course, that is not foolproof. One can escape from Norwich or Gloucester or Ipswich just as one can escape from London, but the thought is that it might be easier to escape in a city where you have associates who might be able to give you some help.

Q87 Chair: Had this particular individual, Mohammed Ahmed Mohammed, come to your attention before? Obviously, there are court papers indicating he was part of a group called the London Boys, which is associated with al-Shabaab. You said in your report of 2011, "The allegations against some TPIM subjects are at the highest end of seriousness even by the standards of international terrorism." These are not choir boys, are they?

David Anderson: No, certainly not. Because there are not very many of them, I follow all these cases quite closely both by attending meetings where their cases are discussed and, of course, by reading the judgments in the cases.

Chair: You have come across Mohammed Ahmed Mohammed before?

David Anderson: I have not met him but, of course, I knew about his case.

Q88 Chair: Is he a dangerous person? Is he a worry, as people now think he is?

David Anderson: He has been heavily engaged not only in fighting but in attack planning in Somalia—or so the Home Secretary believes; no criminal court, of course, has ever shown that. He has also been involved in recruiting other English people to travel to Somalia. You may have seen from the open judgment of last October, the review of his TPIM measure, that he was associated in some way with Ibrahim Magag, the other abscondee, or at least he was thought to have been associated.

Q89 Chair: Yes. That is the person you had completed your report on in March 2013. You did some kind of review?

David Anderson: Not a specific review, no. The Home Secretary indicated to Parliament that she would keep me briefed on the progress of the investigation into Magag's abscond. She was as good

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as her word and so I am aware of what happened after that abscond, yes.

Q90 Chair: What is worrying is that here you have these orders that Parliament passes, and people still abscond. In his case, of course, there is no passport. Is it not standard practice, since you are following these people on TPIMs, that somebody ought to know where their passport is?

David Anderson: That certainly is standard practice, which is not to say anybody necessarily fell down on the job on this occasion. I think there are probably aspects of this I cannot go into.

Q91 Chair: No, but the passport is pretty important because if someone needs to travel they need their passport, don't they?

David Anderson: Yes. For some of these people on TPIMs, the inability to travel abroad is what you are aiming for. That is probably the most important of all the restrictions.

Q92 Chair: The other worrying aspect is that the mosque itself said that they were not aware that this particular gentleman was on a TPIM. I think that the head of the mosque, the imam, Khalid Rashad, said that if only they had known they would have cooperated with the authorities. They seemed to have no idea that the person coming to worship at their mosque was the subject of a TPIM. As you are reviewing terrorism legislation, do you not agree that the involvement and the engagement of community groups is absolutely vital in the fight against terrorism? As we are constantly told, despite having a budget of £1.9 billion, the security services cannot follow everyone all the time. They need the support of the public. Does it concern you that the mosque did not even know?

David Anderson: I would agree entirely that the support of communities is the single most important factor in the fight against terrorism. That is so whether you are talking about England or Northern Ireland. In relation to whether TPIM subjects should be publicly known, the view is normally taken that their identities are not disclosed for their own protection. It is very different in the case of asset freezing where, of course, it can be an offence to pay money, for example, to somebody who is under an asset freeze; therefore, their identities are released and their associates and people whom they meet and people who employ them, indeed, will know that they are subject to an asset freeze.

Q93 Chair: We will put this to Charles Farr, but the Home Secretary is supposed to be drawing up a list of those mosques that are radical mosques and presumably not allowing those with TPIMs to go and worship at those mosques. You would have no problem with that?

David Anderson: She certainly has the power to do that under the law as it is drafted. She can make an exclusion order in relation to any of these people. That might exclude them from going to an area where known harmful associates are living. It could, in

principle, prevent them from going to a particular mosque or mosques.

Q94 Mr Winnick: Of course, in the Second World War a number of people, obvious suspects, were held without detention under the 18B regulations, which I am sure you are aware of—Mosley and his thugs. In the circumstances, there did not seem to be any alternative since we were engaged in a world war against tyranny. As far as these people are concerned, who may well be as dangerous as it is said and I have no reason to doubt otherwise, would it not be better resolved, speaking perhaps as a lawyer—you, not me—by seeing if legislation could be amended so that such people can be tried, rather than use a system that is, apart from the Second World War, somewhat alien to the whole concept of British justice?

David Anderson: I completely agree that the best solution in every case, if it can be done, is to put these people on trial. Can I make a similar comment about criminal justice to the comment that I made about the TPIM? Sadly, it is not a guarantee of everybody's complete safety. If we have become so risk averse as a society that we demand a guarantee that everyone at all times be safe from terrorism, then the criminal process as it currently exists is not going to provide that guarantee. I think we still operate on the principle of Blackstone, that it is better for 10 guilty men to walk free than it is for one innocent man to be punished. You will remember that, of the 10 people who have been subject to TPIMs since the system came in, four have been placed on trial and have been acquitted by a jury. Nonetheless, the Secretary of State believes they are dangerous terrorists and the courts have supported her in that belief when the reviews have come before them.

Like you, I am troubled by the fact that there are cases that cannot be prosecuted at all. I think there was a perception in some quarters that this was all because we did not allow telephone intercepts as evidence, whereas most other countries, of course, do. That is something into which there have, I think, been eight separate inquiries since 1993, with none concluding, "Yes, it would be easy to do. Let us do it". Certainly, my predecessor, Lord Carlisle, who was a distinguished prosecutor at the Bar, looked at all 52 control order cases and concluded that admitting intercept in those cases would not have made any difference. I have quizzed the Crown Prosecution Service similarly about the TPIM cases and they tell me the same thing. What the problem seems to be, rather, is not wanting to put into open court either foreign intelligence or technical surveillance product or evidence from a human agent, for obvious reasons: one would be giving away secrets to the person who is on trial or to his associates or to the public.

Q95 Ian Austin: There are three areas I would like to ask about in relation to TPIMs, firstly in relation to their introduction. As I understand it and as you have said, under the old control orders and TPIMs the difference is that relocation powers are able to be used under control orders and, during the five years that they were in place, no suspects escaped. Last week the Prime Minister told the House of Commons that

the TPIMs were introduced to replace control orders. They had to do so because of the courts, but when they were introduced the Home Secretary said that control orders had been excessive and unnecessary. She said that the new regime would “restore our civil liberties”. Is it reasonable to assume that, with the introduction of TPIMs or the replacement of control orders with TPIMs, there was a deliberate choice to put the civil liberties of terror suspects ahead of the risks to the public?

David Anderson: I do not think it is as simple as that, first of all because the added freedoms that go along with a TPIM might give you added investigative opportunities. I think the thought was that if people were freer perhaps to associate with people that they had known in a place with which they were familiar, it might be possible to pick up a little more information on what they are doing and perhaps even reach the Holy Grail of being able to prosecute them for terrorism-related activity. I think that was part of the thinking.

Another part of the thinking and the reason why it is not just a simple trade-off between liberty for the suspect and safety for the rest of us is that considerable additional money was devoted to the police and to MI5 for the purposes of surveillance. It was not ring-fenced for a very specific purpose, but the clear understanding was that this money was being paid in order to compensate for the fact that relocation was being ended and, of course, TPIMs were coming to an end after two years, whereas control orders could be rolled over year on year. It is that that led the police and the security service to the assessment that the change would mean no substantial increase in overall risk.

Q96 Ian Austin: They arrived at that judgment because they were told, as you said, that there would be extra resources provided for the implementation of the new orders. Your predecessor, Lord Carlile, said the cost would go from £1.8 million a person per year on a control order to £18 million per TPIM. That is what he said, is it not?

David Anderson: There is a footnote by that figure to the effect that it may not have been quite right, but I think, in any event, if that comparison was made it was a comparison of two rather crude figures. The second figure, I assume, would have been intended to represent the entire cost of keeping somebody under 24-hour surveillance for a whole year. Without spilling any secrets, I question whether that is a very realistic way of looking at the way surveillance is practised in this country. It tends to be much more selective than that.

Q97 Ian Austin: Is there any evidence that any additional information has been obtained by the police or the security services as a result of the additional freedoms that the suspects have been granted?

David Anderson: I don't think TPIMs have been very successful as investigative measures, any more than control orders were; although that is not to say that a complete blank has been drawn in relation to the gathering of evidence of possible utility for a criminal

trial. I would certainly accept that we have not seen the fruits of that at this stage.

Q98 Ian Austin: On the question of surveillance, you said the figures of £1.8 million and £18 million were crude and you could not compare them and all that, but what extra funds have been provided and what extra surveillance has been implemented? If it has been appropriate, how it is possible that Magag could just call a cab and this guy Mohammed could just change his clothes and both of them escape?

David Anderson: I wish I could give you the figures. Unfortunately, I am not able to give you the figures. It may be that if you press Charles Farr, who of course has the authority to give them, he may be more helpful to you, but it is a substantial sum.

Q99 Ian Austin: What can you tell us about the information that was provided to Ministers about the differing levels of surveillance that would be applied under the old regime and under the current regime?

David Anderson: I don't think I can tell you what Ministers were told about levels of surveillance. What I can say is that surveillance is adapted constantly to the individual you are dealing with, to the perceived level of risk and to other factors as well. One might have regard to where he is, what his family are doing or what his associates are doing. It is a constantly varying thing and, ultimately, it is the security service that would have the responsibility for deciding the extent of surveillance that might be placed on any particular individual at any particular time.

Q100 Ian Austin: You have said yourself that these people are at the highest end of seriousness, and you have talked about the sorts of things they have been involved in. At the moment there are all sorts of resources being devoted to tracing Mohammed, but in January he would just be free to come and go—at the end of January, the TPIM would be lifted, along with all the rest of them, and they would all be able to come and go. People who have been involved in all sorts of plots to bring down airliners and all sorts of different things would be able to come and go as they please. Surely this has to be reviewed. This sunset clause, it appears to me, presents real dangers.

David Anderson: Obviously there are dangers in releasing on to the streets people who are believed by the Home Secretary, supported by the courts, to be dangerous terrorists. I do think, though, you have to put this in context. Before 2005 there was no power on the statute book to subject British citizens to any kind of constraint in these circumstances unless they were in the criminal process: if they had been arrested, if they had been charged, if they had been convicted of a criminal offence. This is all new since 2005. If you compare it with other countries as well, you will find some countries with vaguely similar provisions, in particular Australia where they have had the system and used it only twice for relatively short periods. We are certainly at the top end of that.

If I may just say two other things about the two-year period. It perhaps brings advantages as well. First, on a point already made, it concentrates minds on the need to find a criminal solution and it stops you just

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parking these people in a shadow justice system, where nobody has to prove anything but they can remain under constraint. The second thing it does—and thank you for your tolerance, Chairman—is it helps you focus on exit strategy. What are we going to do with these people at the end of the two years? How are we going to prepare for the end of the two years? Instead of just sitting in a warehouse and being quietly forgotten, minds are focused on what is a sensible disposal.

Q101 Michael Ellis: I did think I was question 2, but that does not seem to have happened, Chairman. Mr Anderson, bear with me while I ask you several questions now. First of all, there is clearly a political agenda in some quarters to try to make a point about control orders and TPIMs, “Ours is better than yours. Yours is better than mine”. Let us get to the crux of this. Is it not the case that under the duration of the control orders something in the region of seven people absconded? Could you say yes or no, please, rather than nodding?

David Anderson: That is true. Seven people absconded before 2007.

Q102 Michael Ellis: Before 2007. We have two absconds now under TPIMs. Is that right?

David Anderson: Yes.

Q103 Michael Ellis: The other thing I wanted to ask you was this. Is it not the case that under the currency of control orders, before TPIMs came into force, the courts were starting to delve into the control orders and starting to weaken them, starting to effectively question their validity and, in effect, reduce their potency?

David Anderson: I do not agree with that. I would say that the courts certainly refined the operation of control orders.

Q104 Michael Ellis: What do you mean by “refined”?

David Anderson: For example, they brought down the maximum allowable curfew to 14 hours. There is nothing more—

Q105 Michael Ellis: Forgive me, Mr Anderson, but isn't that weakening something? If the maximum curfew was more than 14 hours and then the court reduces it to a maximum of 14 hours, that is weakening the power of that order, isn't it?

David Anderson: Yes, but that judgment did not require a new maximum of “overnight” or 10 hours to be imposed, which is what has happened now. Yes, the courts did have an impact on the operation of control orders, but there was no suggestion in the courts that the system of control orders was unlawful. One might say, and I will give you this, that the courts did not have to deal with people who had been under these sorts of constraints for six or seven years, as some people now have. It may be that, had one arrived at that point, the courts would have started saying, “Hang on, this is not just a temporary disruptive measure. This looks very like house imprisonment and

it has just been going on for too long”, but we did not get to that stage.

Q106 Michael Ellis: We did not quite get to that because they did not last long enough, but there were signs in judgments, were there not, that the judges would be concerned at this point, as you rightly say, several years having passed, that effectively there was a violation of the human rights we keep hearing about of these suspects?

David Anderson: Some of the liberalisations, which incidentally I welcome to the terrorism laws over the last three years, have been prompted by judgments of the courts, even the Court of Human Rights—the end of stop and search, for example, in the street. I would not put TPIMs in that category, because the principle of control orders had been upheld by the courts, even if specific aspects or specific orders were said from time to time to be excessive.

Q107 Michael Ellis: I am struck by what you said when you started your remarks, which was that there is no failsafe mechanism of protecting the public from terrorist attack short of locking people up in a maximum security prison, and I suppose even in those circumstances people have been known to escape. While we are in a situation where we cannot lock people up without sufficient evidence and we cannot deport them either if they happen to be British citizens or if deporting them means that they will be killed in another country, there is very little we can do, other than that which we are already doing, to restrict their liberty as much as is possible without a conviction or evidence. Was that a fair characterisation?

David Anderson: I think there are an awful lot of weapons in the armoury. In my view, control orders were and TPIMs are an important weapon. Nobody likes them very much, but they are very useful. One concern I have about all this is this zero risk mentality. If every time something goes wrong with one person on one of these orders and a political storm or a media storm ensues, it seems to me the likely consequence is going to be that people become very averse to using these remedies at all. What we may find is that, for essentially political reasons, we lose what could have been a very effective remedy.

Q108 Michael Ellis: When you were asked about this two-year strategy, I think you were saying that you think there ought to be a mechanism whereby, when people come to the end of their two-year orders under TPIMs, they are helped out of them. Is that what you are saying? Is that your view?

David Anderson: My view is a very pragmatic one. In the criminal courts I sit as a criminal recorder. I can have someone before me convicted of stealing the wheels off a car and even that person has a probation officer prepare a report on him and tell me what he thinks the best disposal is to make sure he does not offend again. My concern was that people were languishing for years on control orders. The police officer, the spy and the civil servant would meet every now and again to see how he was getting on, but no one was necessarily thinking about the best way of

ensuring that at the end of the order he was guided towards a more productive life.

Q109 Michael Ellis: So the easiest thing to do was just continue him on that order, whereas now that cannot happen?

David Anderson: I think there is an incentive now to think seriously about this, which is why I have recommended that the law be changed in order to give the Home Secretary a power to require these people to meet with appointed persons. It might be a respected imam or an elder in the community. In some cases it might be utterly pointless, but in other cases—some of these people were very young; one was in his teens when he first went on a control order—it might be helpful.

Chair: I seem to have lost a little bit of control, like the TPIMs, on this session because a lot of questions have been asked. We do have another witness, just so you are all aware of that, but that is not a warning to Mr Winnick who may ask as many questions as he wants, following Yasmin Qureshi.

Mr Winnick: I am just setting the example, perhaps, for the other two.

Q110 Yasmin Qureshi: I am not going to be talking about the merit of TPIMs over control orders. What I am more concerned about is the balance between security and civil liberties. I think you know—I am aware of the fact—that there have been a number of cases where people have been arrested, sometimes they have spent a lot of time in custody, they go to court, and the cases are dismissed. You have talked about some cases specifically in the TPIM regime and others—four put on trial, four acquitted. Would you think that we have gone perhaps too much on to security and thereby eroded the civil liberties?

Chair: Mr Anderson, that is an essay for you.

David Anderson: Yes.

Yasmin Qureshi: Yes, it may be. Sorry, I do not mean to—

David Anderson: Let me start very broadly.

Chair: But could you be brief?

David Anderson: I am rather proud to live in a society where, on the whole, people can go about their daily business neither terrified that they are going to be killed by terrorists nor irritated beyond belief by the measures that are put in place to protect us. In terms of conviction rates, they are pretty good. On people charged with terrorism offences, the CPS do a pretty good job—I have forgotten the exact percentage. It is in my report, but a substantial proportion are convicted.

I would accept that that is not the case where people are put on trial for breaching their TPIMs, and I think one reason for that is the breaches are often very trivial. You might be a couple of minutes late phoning your service provider to tell them you have arrived back home and that will be logged under the zero tolerance policy. You may eventually end up, if the CPS allows it, in court. I think it is sometimes difficult to persuade juries, who do not of course see the national security case against these people, that these are serious offences that do deserve to be convicted.

Q111 Yasmin Qureshi: Yes, you are right. Where people are being prosecuted and charged, I do not think anybody has any real issue about those because that is what should be happening. The concern that a number of people have is about where somebody has not been charged, and they are not going to be charged; they are just there because the Home Secretary feel that there may be something—whatever. Then there are all these other forms of evidence that can be used, and we are told that sometimes they will not prosecute a case because they cannot get certain evidence in. From my former practice, I know the fact that the courts have various different means of getting evidence in without people knowing who their source is—you do not have to reveal the source of your informant; you can give evidence behind screens; you can do all sorts of things.

David Anderson: I think there is more potential for that and I am certainly not trying to do a compare and contrast, but under control orders where, in principle, the detention or the constraints could be indefinite then perhaps there was more of a risk of that happening. It is difficult to see why it would happen with TPIMs because they are a weaker measure. They can only last for two years. It is not a terrific win for the police or the security service to get someone put under a TPIM for two years because it is very expensive to look after them and they are free at the end of the two years. I think, for them, the first option is always going to be to prosecute and so it should be.

Q112 Mr Winnick: Mr Anderson, under schedule 7 of the Anti-social Behaviour, Crime and Policing Bill, as we know, people can be detained without any suspicion whatsoever. It is meant, presumably, to ascertain whether they could be involved in terrorism, as I understand the position. You are rather critical of that, aren't you?

David Anderson: I think it is a very useful power that has been instrumental in securing evidence that has been used to convict terrorists and that has been particularly useful in gathering intelligence on terrorist activity, including not least from the search of data, for example, on mobile phones that are seized as people go through the port. I would not say I was critical, but I think the fact that, as you say, it can be used without the need for any suspicion—anyone travelling through a port can be subject to a schedule 7 examination—means that there is a potential for over-use. I have been very pleased to see that this power was used 30% less last year than it was three years ago. Unlike the old stop and search power, section 44, which almost ballooned out of control, this one seems to be used decreasingly as the years go by. Having said that, there are still 60,000 people or so stopped at ports; not all those stops are based on intelligence and I think there is room for a further decline in those numbers and for some further safeguards on how the power is exercised.

Q113 Mr Winnick: There is one particular case that I have consulted today. It remains sub judice, so obviously I have no intention of mentioning it but, insofar as you would like to see some change, I

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assume it is on the basis that there should be some possibility that terrorism has been involved before the person is detained and questioned. Is that so?

David Anderson: I have been persuaded that we still need a no-suspicion power to stop and examine. Take the example of two men going through Heathrow: the intelligence services know all about one of them and he is a hardened terrorist; the other person they have never seen before. They know nothing about him except that he is travelling with somebody dangerous. That is not reasonable suspicion, but wouldn't you want to get him in and ask him some questions? I would suggest that that is plain common sense and that you would.

Where I have more concerns is where you look at some of the ancillary powers, for example the power to detain someone for up to nine hours—if the Bill goes through, it will be six hours—the power to download a mobile phone, the power to take DNA and so on. It seems to me it is worth at least thinking, as indeed the Joint Committee on Human Rights has thought, about whether some further threshold might be necessary at that stage to justify the exercise of those powers. I do not necessarily say it has to be as high as reasonable suspicion, but I think it does bear thinking about and debating as to whether some further safeguard is not necessary at that stage.

Q114 Mr Winnick: The Government knows your views, presumably, on this?

David Anderson: Yes. I publish my reviews in reports. The last one came out in July and I indicated there where I thought it was a good idea to do some thinking. Of course, there is an avalanche of litigation going on, so in a sense this is not the ideal time to be looking at a Bill. As well as the case you mentioned, there was another case decided last week, a case decided back in August, the Supreme Court passed comment on schedule 7 a couple of weeks ago, and there is a case pending in Strasbourg. There is an absolute blizzard of legal cases at the moment and we will have to see how the landscape looks when they have all been decided.

Q115 Mr Winnick: Do you believe *The Guardian* was wrong to publish material arising from Edward Snowden?

David Anderson: I am certainly not going to get into that. I think we would all agree that the media are not above the law. They are subject to the law as everybody else is.

Q116 Mr Winnick: We know from the current court cases that the newspapers are not above the law. There is a case going on.

David Anderson: I am not going to talk about that one, but I think we know anyway that the media are not above the law. Of course, if you look at the prosecutorial guidelines and so on, newspapers are not like everybody else. To the extent that they can demonstrate a public interest in what they are doing, that may affect the public interest test that the prosecutors apply.

Q117 Mr Winnick: Mr Anderson, I certainly do not want to push you against your will. You have been very forthcoming in your views and we appreciate that, but if I can just ask you, arising from what I have asked you about *The Guardian*, do you nevertheless feel that the debate that is taking place—various people have said that we need to have a review of existing powers; that the amount of intelligence-gathering shown by what Snowden has revealed is such that it is too extensive. We know, for example, arising from all this—an issue highly beneficial to terrorism—that the German Chancellor's phone was hacked. Do you think in all these controversies arising from what *The Guardian* has published that it has been useful to have such a public debate both in Parliament and outside?

David Anderson: I think the debate has undoubtedly been useful. It is not for me to say whether the utility of that debate has been outweighed by the damage that is said to have been done to national security by some of the specific disclosures. I do not get into that; it is not something I am capable to judge, but certainly one can make the case that the Regulation of Investigatory Powers Act, although only 12 years old, has already been overtaken by developments in technology and I could well understand the argument for revisiting some of the powers in that Act.

Q118 Mr Winnick: I wonder if I can just pick you up on what you said, “the damage to national security”. Are you basing those remarks on any evidence? You may not wish to share with the Committee. I accept that, but there does not seem to be anyone producing evidence that the *Guardian* has produced material that will aid and benefit terrorism. It is very well for others, not necessarily yourself, to say that they are undermining security and the rest of it, but no evidence seems to be produced of any kind. What is being produced is a sort of wide-ranging review. I heard, for example, the US Secretary of State saying in reply to a question—he was being interviewed on Radio 4 today—that the President is carrying out a full review. That is unlikely to have taken place without the Snowden revelations.

David Anderson: That is the question of the public interest benefit. As far as the detriment is concerned, no. My job is to look at the operation of the Terrorism Act. I am not the Surveillance Commissioner or the Intelligence and Security Committee, and I have not asked for the detailed evidential briefing, which is what I would need if I were going to be persuaded that very serious damage had been done to national security. I can understand, and it might even be thought to be self-evident, that if documents are published or indeed given to hostile people that indicate that a particular form of communication has been decrypted, then terrorists or others might be alerted to the advisability of not using that channel of communication and moving on to something else where coverage might be less good. I can understand the theory. I cannot pretend to have looked at the evidence.

Mr Winnick: Thank you very much. I will not press you any further.

Q119 Chair: Are you a *Guardian* reader?

David Anderson: It is one of the papers I read—not the only one.

Mr Winnick: It is not yet a criminal offence, even to the Tory Government.

Q120 Chair: I should tell you that the editor will be coming to give evidence to the Committee in December. You saw the evidence of the three security chiefs to the Intelligence and Security Committee?

David Anderson: I did, yes.

Q121 Chair: Do you think that terrorists were rubbing their hands with glee when they saw the articles in the *Guardian*?

David Anderson: They have, no doubt, listened to the tapes and I have not. I can only defer to them on that.

Q122 Dr Huppert: I am not sure in what order to do things. If we can rewind slightly to schedule 7, which we were on for a while, there are some changes being made to the Anti-social Behaviour, Crime and Policing Bill, and while that legislation is in the House of Lords there is the opportunity to implement anything you recommend. Will you have a series of recommendations in time and have you had any communication from the Government that they will implement the changes that you recommend?

David Anderson: It is always difficult for me to know how to do this because I report on the operation of the Act. I see my role as being to inform the public and political debate, rather than to participate in it, but I would say there are perhaps four issues that would bear looking at, at least. The first we have already touched on: the test that must be satisfied before some of these ancillary powers are used—for example the power to download, the power to detain or to keep people beyond a certain time. I do not say it needs to be as high as reasonable suspicion, but should something be required.

The second issue relates to the use made of answers given under compulsion. This is a point that the divisional court brought up in the case of *Beghal* that was decided a few weeks ago. It seemed unconscionable to them that answers given under compulsion should ever be used in a criminal court. Although I think most people who operate the system work on that assumption anyway, the judges suggested that the Bill should be amended to make that point.

The third issue relates to the treatment of privileged material, journalistic material and so on. I am going to say no more about that because that one is sub judice and *Miranda* and we will have to wait and see what the current position is.

Fourthly, and this is perhaps not for the statute but nevertheless very important, is the question of what you do with all this data that you harvest from somebody's mobile phone or their computer. If it is DNA, of course we have the protection of the Freedoms Act 2012—all sorts of protections are in place to make sure it is kept for as long as it is needed but not any longer—but nothing equivalent when it comes to electronic data. That is an issue, of course,

that goes well beyond schedule 7, but it seems to me it is still an important one.

Q123 Dr Huppert: This is a very helpful list and it fits fairly well with a motion passed at the latest Liberal Democrat conference—a list that you possibly have seen but it goes with this—but you did not quite answer the question about whether you have had communication with the Government about whether they would implement the changes that you are suggesting. Will you have the opportunity to get things done the way you would like them to happen?

David Anderson: I have not sought to present them with a Christmas list. I do talk quite regularly to the Government and to police about the way the power operates and how it might be improved.

Q124 Dr Huppert: I think you would find some people interested to hear what you recommend. Can I just move on to cover a couple of other things that we do need to cover? One is about the location of counter-terror policing. You made some comments recently almost that it should not be discussed until we have seen how the NCA works. Is that still your position and when should we be debating it and when should we be asking you back to comment?

David Anderson: I saw Sir David Omand's evidence to your Committee, which demands the highest respect, and he suggested there should be a five-year moratorium before anybody even discusses the idea. I do not know whether I would go as far as that, but I do very much echo his call for caution. We have a system that, although not ideal, does at least work pretty well and it has one priceless benefit that one does not see to the same extent in a lot of other countries, which is a pretty good operational relationship between police and intelligence.

At the other end you have another benefit. You saw, for example, the investigation of the murder of Mohammed Saleem in Birmingham earlier this year. That was a terrorism investigation but what you saw there was specialist terrorist police working very well with local police. By the end it was a question of knocking on doors and say, "Have you seen this man?" Again, the fact that the unit was embedded in the local community and was part of a local force, I think, had some usefulness.

Q125 Dr Huppert: I am sorry to jump around so much. We were talking earlier about the public debate and I think you welcomed the public debate that is now happening about intelligence and security, oversight and what is and is not reasonable. The debate in the UK has been far more muted than in many other countries—US, Germany, Brazil and many other places. Why do you think that is and what would change that? What would create a more informed and broader public debate?

David Anderson: I would suggest we are very proud of our intelligence services. If you wanted my top two reasons, I would say Bletchley Park and 007. We have not had the sort of bad experience that they had in parts of Germany or in Eastern Europe with intelligence services and, for that reason, I think

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people are disinclined to believe that those who have those responsibilities are misusing them.

Q126 Chair: But James Bond used to shop at Harrods, and sometimes it looks as if we are going into Aldi these days, with people escaping all the time. Doesn't it worry you that the great reputation of our security services and the police are damaged by these stories of people just getting into cabs or going into mosques and changing into a burqa and then escaping? This is a worry for what is the best security service in the world, is it not?

David Anderson: In this job, Chairman, as in yours, worrying things happen every day of the week. There are huge jailbreaks in Iraq and Afghanistan with terrorists of—

Q127 Chair: Yes, but we are talking about only 10 people and you have your eye on these 10 people. One would assume that everyone else had their eye on them. If you look at Mohammed Ahmed Mohammed's sister, she said, "When he was on a TPIM it was not as strict as being on a control order. Then he was being followed all the time, but with a TPIM it was just the first few months. It was like that and then it became more laid back. Before it was every day." It is the policy that seems to be wrong, not the operation.

David Anderson: I do not want to get into a political debate, particularly a party political debate, on whether control orders were better than TPIMs. I do not think that is my function. My function is to—

Q128 Chair: I am not asking you to do that. I am asking you for the operational aspects of this.

David Anderson: I think, looking at it operationally, what one must not lose sight of is that both control orders and TPIMs resemble nothing so much as bail conditions. In fact, if you look at, for example, the bail conditions that Abu Qatada was under when he was on immigration bail, they were a lot stricter than anything that was permissible under a TPIM. Unfortunately, people do sometimes jump bail. It is a fact of life.

Q129 Chair: Are our expectations too high? Would we expect then people who are on a TPIM with a G4S tag to regularly tamper with their tag and disappear?

David Anderson: No, Chairman ...

Q130 Chair: In which case, what is the point of having them?

David Anderson: ... of course not, but I think if one does have an expectation of zero risk then one is not only bound to be disappointed, but one also risks misallocating resources in pursuit of 100% protection that is never going to be attainable.

Q131 Chair: Would it help if we had exit checks at airports? One of the issues, in this is about the passport and the fact that Mr Mohammed was brought back to the UK. If we had exit checks, presumably we would know who was leaving the country.

David Anderson: One advantage of the schedule 7 port power is that of course that can be used on exit

as well as on entry. If one has information that a person is going to be leaving the country through a particular port at a particular time, or even if one just thinks they might be, it is possible to put some sort of check in place. Of course, it would not be difficult to think of ways in which life could be made safer but a lot of them would be very intrusive. Somewhere, the balance has to be struck.

Q132 Chair: It would help if people were prosecuted if they tampered with their tags, because that is a criminal offence and it appears that those who have tampered with their tags so far have not been prosecuted. The Home Secretary is very keen on prosecuting them.

David Anderson: Yes, she is very keen.

Q133 Chair: Why haven't they been prosecuted?

David Anderson: I do not want to give away any secrets from within OSCT but any suggestion that the Home Secretary was anything less than wholly dedicated to tracking these people down would be completely misplaced.

Q134 Chair: But why is she not being listened to by those who have operational responsibility?

David Anderson: I think she is.

Q135 Chair: Why is she saying, "I want them prosecuted and nobody is prosecuting those who tamper with their tags"?

David Anderson: But you give an example of prosecution for tag tampering. Ironically, the very day he absconded, the Crown Court, I think, at Southwark had just heard from the Crown Prosecution Service that they could not proceed with the prosecutions for tag tampering. There was a very strong wish to do it, but at the door of the court, for whatever reason, the evidence did not stack up, so the prosecution had to be pulled. Ironic, you might think, that it is the same day that the tag is disposed of and the suspect flees.

Q136 Chair: This is the allegation that there is something faulty with the tags and, therefore, they say that they have been tampered with but in fact they have not been tampered with? Is that the issue?

David Anderson: The other thing about these cases is they may seem trivial but they are remarkably difficult to prosecute and a lot of evidence is required, expert evidence. There are experts who specialise in tags and how easy they are to tamper with and how the tamper might have taken place.

Chair: Yes.

David Anderson: It was in that context, I think, that those charges were dropped.

Chair: Unknown to you, we did have private evidence from G4S about the tags, though we should have had them after you had gone because I think this session has raised even more questions that we would like to ask.

Q137 Ian Austin: You said that under the TPIMs there was this process that enabled people to be weaned off the TPIM and prepared for life without these controls. Given that the TPIM on Mohammed

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would have ended at the end of January and he has fled now, that process has clearly not been very successful, has it? What confidence can we have in the idea that it will work in relation to the other people on TPIMs?

David Anderson: There are some in respect of whom it probably would not even be worth trying; people who are believed to be ardent terrorists.

Q138 Ian Austin: But surely then, controls should be maintained and the sunset clause should not apply.

David Anderson: I suppose it comes down to what sort of country we want to live in. Do we want to live in a country where we have a little more assurance as

to our safety but where people are kept indefinitely under harsh constraints, without having been convicted of a criminal offence? Some people will take one view and some the other.

Chair: Mr Austin, we will put that question to Charles Farr, who might be better able to answer it. Thank you very much for coming in, Mr Anderson. You have been very helpful. We will write to you again following this session because our inquiry will continue until March. If there is anything that you would like us to know about, please do not hesitate to write to us.

David Anderson: Thank you very much indeed.

Chair: Thank you for coming in.

Examination of Witness

Witness: **Charles Farr**, Director General, Office for Security and Counter-Terrorism, Home Office, gave evidence.

Q139 Chair: Mr Farr, welcome to the Committee. This is not your first appearance, though on previous occasions you were here in a different capacity. We are pleased to see you here in open session. As you know, the Committee is undertaking an inquiry into counter-terrorism and we have asked a number of witnesses to come in to talk about the architecture of counter-terrorism. I would like to ask you about the most recent issue concerning Mohammed Ahmed Mohammed. We have heard evidence from David Anderson on this and, of course, many of us were in the Chamber on 4 November when the Home Secretary gave her statement to the House.

I want to start by asking you about the passport issue. I specifically asked the Home Secretary whether the police had the passport of Mr Mohammed because, very similar to Ibrahim Magag, there was a delay in telling Parliament exactly what the situation was. It turned out that she said to the House and to me, in good faith—no one is challenging the Home Secretary's good faith—that the passport was with the police. She then wrote to me to say that in fact she had been briefed incorrectly. You obviously head the Office of Security and Counter-Terrorism and you would have seen the brief before it arrived with the Home Secretary. How is it possible that such a mistake could be made, where the Home Secretary was given incorrect information?

Charles Farr: Thank you. On the question of the passport, when a TPIM is issued it is standard practice for the subject of the TPIM to have his passport withdrawn and it is surrendered to the police and held by the police. In this particular case, an assumption was incorrectly made that that had happened in the case of Mr Mohammed. The draft of the Home Secretary's speaking notes was shared with the police to check the accuracy of it. The police corrected this point, but the correction was not acted on swiftly enough in my office. It is entirely our responsibility. For that reason, the Home Secretary said something that was wrong, and I apologise for that. I have apologised to her and I believe she, of course has written to you.

Q140 Chair: Yes. You feel that this is because of information you received from the police?

Charles Farr: No, the police corrected our information.

Chair: After she appeared in the House?

Charles Farr: No, before. I am not being clear. We gave our draft briefing to the police and the police pointed out to us that they did not have Mr Mohammed's passport—they do have the other passports of other TPIM subjects—but by the time that correction reached us, the brief had gone on its way and it was not corrected for the Home Secretary in time. I emphasise that the responsibility for this is ours, not the police's.

Q141 Chair: Thank you for that apology. As far as the other TPIM subjects are concerned, presumably we now know where their passports are?

Charles Farr: We have double-checked and they are indeed all with the police.

Chair: All the other TPIM subjects' passports are with the police?

Charles Farr: Yes.

Chair: Mr Mohammed does not have a British passport. Is that right?

Q142 Charles Farr: Mr Mohammed was entitled to a British passport, but when he was deported from Somaliland, where, as you know, he was detained by the authorities, he had no British passport and it was not found with him.

Q143 Chair: Right. But how is it possible, for those of us who obviously also scrutinise immigration issues, for someone to be deported from a foreign country without a travelling document? We do not seem to be able to send anyone out of this country without a travel document.

Charles Farr: He was issued with a British travel document by the embassy in Ethiopia. That is standard practice where someone is stateless and they are being removed from another country to here. When he arrived in the UK he was searched. That travel document was taken from him. No other travel

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document was found on him and, in particular, no British passport.

Q144 Chair: Mr Farr, knowing what Mr Mohammed was involved in, knowing his association with al-Shabaab, why would our embassy go out of its way to give a British travel document to someone to come back into this country to involve themselves in activities that would end up with them being put under a TPIM? He did not have a British passport so we gave him a document to travel, to bring him back so that he could carry on his activities. It does sound a bit odd, does it not?

Charles Farr: He was entitled to a British passport and he had a British passport that was issued to him in 2005. We were under an obligation in those circumstances, when requested by the authorities in Somaliland, to arrange for his removal back to this country, which was what they had requested.

Q145 Chair: What is his status now then?

Charles Farr: He remains the holder of a British passport or at least entitled to a British passport, which he does not have in his possession.

Chair: But he has not applied for one?

Charles Farr: No.

Q146 Chair: In the time that he came back, when we helped him come back with a British travel document, which you say we are obliged to do—I can tell I you I have so many cases of people we are trying to get rid of out of this country but we can't because the host country will not have them back—I have not come across this obligation to return to our country somebody we do not want to have here. Presumably, with his history, we would not want to have him, as in the case of al-Libi, the last person who sought asylum to whom we did not give asylum. Why is it that we keep bringing all these people back?

Charles Farr: I think the fundamental distinction between Mr al-Libi, who as you know was not in fact granted asylum, and Mr Mohammed is that Mr Mohammed had been granted UK citizenship in 1999. He had acquired a British passport in 2005 and it was for that reason that there was felt to be an obligation, which I understand to be a legal obligation, to facilitate his removal from Somaliland when it was requested by the Somaliland authorities that that should happen. When he came back here, as far as I know—this is what the records say—he did not apply for another British passport and has not acquired another British passport. Whether he has another passport at present, we do not know.

Q147 Chair: Just a second, Mr Winnick. I will bring you in in a second. I am just following this thread, which sounds bizarre to me, that we should go out of our way to bring someone back like this. The Home Secretary is now talking about stripping British passport holders of citizenship, which she has some powers to do already. We can't strip Mr Mohammed of his citizenship because he does not have his citizenship, although he is entitled to it. In all the time he has been here, he has never applied for a British passport, although you are telling us he is entitled to

do so. If she decides that she does not want him to stay, where does she send him to?

Charles Farr: I think it is important to make a distinction, if I may, between a passport and citizenship. As you rightly say, the Home Secretary has the right to deprive a UK national, a UK citizen, of their British passport. The terms on which she is able to so were amended slightly and confirmed in a written statement earlier this year. The Home Secretary has a separate power, not under prerogative but under primary legislation, to deprive someone of their nationality only so long as they have another nationality and are not thereby left stateless. There are some legal uncertainties around aspects of that, but these are two separate processes. In the context of Mr Mohammed, his travel document was removed from him when he came back here. He did not apply for another passport, but he was not deprived of UK nationality.

Q148 Chair: No, we understand that. As far as other people are concerned, if they have another citizenship you can get rid of them, but if they do not have a dual citizenship we are stuck with them as stateless people. This is the problem with these issues.

Charles Farr: Broadly you are correct. It is not possible for us to deprive someone of their British nationality if they are thereby left stateless. There is some uncertainty, which we are currently looking at, about whether that applies to people who have been naturalised here as well as to citizens who are born here, but I hesitate to comment on that any further because it is an issue that is with the lawyers.

Q149 Chair: Of course. It is just that we have seen a pattern with the Kenyan case of Michael Adebolajo. A British official goes to court and argues that he should be returned to the UK. Mr Mohammed returns to the UK. Are we doing something with these people? Are they of use to us in some way by bringing them back to our country?

Charles Farr: They are of no use to us, no, and I think the only—

Chair: Because it is odd that we should be going out of our way to bring everyone back.

Charles Farr: Only where they are UK nationals. I would emphasise that, where people are not UK nationals, that obviously does not apply and where they are dual nationals it is and has been open to the Home Secretary to deprive someone of UK citizenship, so long as they are not rendered stateless, and thereby to keep them out of this country. I think you will not be surprised to know that the Home Secretary would do the utmost and expect us to do the utmost to keep people out of this country who are engaged in terrorist-related activity where they have no overriding legal reason to remain.

Q150 Chair: My final question on passports: he is a Somalian citizen as well as a British citizen?

Charles Farr: I am not aware that he is a Somali citizen, no.

Chair: He has no other citizenship?

Charles Farr: So far as I know, but let me double check that.

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Chair: You mean you do not know this?

Charles Farr: As far as I know he—

Chair: The Home Secretary has made a statement to the House—

Charles Farr: As far as I know he is a mono-UK citizen.

Q151 Michael Ellis: Mr Farr, can I move on from that point and ask you about this in respect of Mohammed Ahmed Mohammed, the legal system, what he was doing and how he was operating within the legal system? Was he being prosecuted for breaking his control order at the time of his absconson and can you tell us something about what was happening as far as his processes through the courts are concerned, because I am concerned about that?

Charles Farr: Yes. Not untypically for people on TPIMs or previously on control orders, this is quite a complicated case; so please bear with me and stop me if I am going into too much detail. Mr Mohammed came back here, as we have discussed, in March 2011 and was placed on a control order. In October 2011 he was arrested on 14 counts of breaching that control order. I note in passing that that control order included a relocation.

Q152 Michael Ellis: Sorry, is that in the public domain?

Charles Farr: I have seen references to it.

Q153 Michael Ellis: He was being prosecuted for 14 breaches of his control order?

Charles Farr: He was arrested and remanded in custody in October 2011, pending prosecution for 14 breaches of his control order, and those breaches had taken place between August and October. However, he subsequently argued, in February 2012, that his trial for those breaches should be stayed behind a review of his control order, which he had been seeking through the court. That was agreed and, although the CPS requested that he remain in custody, that was refused and he was let out.

Q154 Michael Ellis: A judge bailed him?

Charles Farr: Correct.

Q155 Michael Ellis: Do we have this right so far? He is being prosecuted for breaching his control order on 14 separate occasions.

Charles Farr: Arrested and charged.

Q156 Michael Ellis: Arrested and charged, but the prosecution against him is stayed because he is arguing that the control order was not lawful in the first place?

Charles Farr: That is correct.

Michael Ellis: Originally he was remanded in custody, but then he was released on bail—

Charles Farr: That is correct.

Michael Ellis:—and clearly he was on bail under these conditions when he put the burka on and escaped?

Charles Farr: It gets a little bit more complicated. In December 2012 he was arrested a second time, in this

particular case for breaches of what had then become his TPIM. He was arrested on six counts and again remanded in custody and again, in April 2013, the court granted him bail after he again argued for his trial on the breaches to be stayed behind, on this occasion, an appeal against a High Court judgment that had reaffirmed the validity of his control order and TPIM. In effect, he did the same thing again, though in this case he was asking for his breach prosecutions to be stayed behind an appeal rather than the original High Court judgment.

Q157 Michael Ellis: This is extraordinary. Despite 14 allegations of a breach of a control order and six allegations of a breach of TPIMs, he keeps being readmitted to bail from custody by the courts until he goes on to escape by putting this burka on?

Charles Farr: Forgive me. There is one more relevant episode.

Michael Ellis: I dread to think.

Charles Farr: In July 2013 he was arrested again, this is the third time, and he was again, for the third time, remanded in custody. Once again, in a very similar way, in August 2013 he argued that that prosecution should be stayed behind his appeal against the High Court judgment upholding his control order and his TPIM. The CPS, as they had on the two previous occasions, opposed the granting of bail. The court granted it. He was released in August 2013.

Q158 Michael Ellis: The crux of this, it seems to me, is that he was successful, or his legal team was successful in repeatedly asking the courts to stay proceedings against him because if he had been successfully prosecuted for breaching these orders he would have been given a custodial sentence for the breaching of the orders, would he not? Have there been examples of people being sent to prison for breaching these orders?

Charles Farr: Yes, there has been one example of someone convicted for breaching a TPIM and there were two previous examples of persons being imprisoned for breaching control orders.

Q159 Michael Ellis: How long was the sentence?

Charles Farr: The TPIM breach earned a sentence of nine months and the accumulated counts earning that sentence were less than those that had been accumulated in this case. It is reasonable to assume that, if convicted, he would have earned a sentence of well over a year or probably 18 months.

Q160 Michael Ellis: With your leave, Mr Chairman. If they had not stayed the cases of all these breaches and he had been prosecuted and convicted, he would not have been on bail at all. He would have been, almost certainly, serving a sentence of more than a year in prison?

Charles Farr: That is correct.

Q161 Michael Ellis: He played the legal system?

Charles Farr: I can't comment on that.

Michael Ellis: No. I can.

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Q162 Mr Winnick: Leaving aside the legal system, it is quite a saga, is it not, over this individual and, apart from threats to our security, the cost to the public purse? Mr Farr, I want to bring you back to the question the Chair put to you and your response. I am not altogether clear in my own mind why he was allowed back, given his history. You said that there was some ambiguity. You are not sure on what legal aspect he was allowed back into Britain. Is that so?

Charles Farr: He is a UK national and a mono-UK national. As such, if another country, in this case Somaliland, is unable to prosecute him and they determined that they were so unable and wished to deport him back to his country of origin, we had a legal obligation to facilitate that.

Mr Winnick: Not a UK citizen; a UK national.

Charles Farr: He is a UK citizen. It is the same thing.

Q163 Mr Winnick: You are saying in effect, regardless of the evidence that was against him for all his various activities, that there was absolutely no way in which he could be refused and then a court case could emerge in which the British Government would put the evidence why he should not be allowed back. Is that what you are saying?

Charles Farr: Once the authorities in Somaliland had determined that there was no evidence that they could admit in court sufficient to prosecute and convict and therefore, as we would in similar circumstances, that they wished to deport, we were obliged to facilitate that deportation, which we did through a British travel document.

Q164 Mr Winnick: How did he become a UK national in the first place; Mr Farr?

Charles Farr: Mr Mohammed arrived here in 1989 at the age of three and he was granted nationality in 1999 at the age of 13. I am happy to look into the circumstances of that. I do not have it to hand, but—

Q165 Chair: If you could do two things for us it would be extremely helpful. You have been very open with us today, Mr Farr. If you could let us have a timeline on the breaches of the orders together with the prosecutions or the attempted prosecutions and also if you could look at the issue of when he acquired citizenship, because it is relevant to our inquiry and further questions we have about foreign fighters that we shall put to you. We are very concerned that we are going out of our way, it seems, to have people back here and then try to get rid of them again. What you are saying to us is that we can't get rid of him anyway. Unless he is a Somali citizen—

Charles Farr: Correct.

Chair:—he is here to stay and, therefore, he has to be dealt with under the law of this country.

Charles Farr: I am sorry to make this more complicated, but with the proviso—

Chair: We can't send him to Mars, can we?

Charles Farr: With the proviso, as I said earlier, that there is some legal ambiguity about whether people who are naturalised British nationals rather than born here may be deprived of their citizenship—I am not talking about passports—even if it leaves them

stateless, but I hesitate to comment any further on that because that is an issue of legal concept.

Chair: I am sure you will take many counsels' opinion on that very important subject.

Q166 Dr Huppert: It is a pleasure to see you in public in front of this Committee.

Charles Farr: I have been in front of the Committee before.

Dr Huppert: I am sorry, I lose track of where I have seen you in public before, but it is very good. We have seen the security chiefs in public, and I hope they will be able to come to this Committee as well. On this issue, you have gone through a whole series of breaches of the control orders and TPIMs. Do you believe, whether or not the evidence could be used in public or not, that he has committed any offence under UK law other than those associated with control orders and TPIMs?

Charles Farr: No, because I am sure that we would have prosecuted him if he had. After all, the very foundation of control orders, as you know, and TPIMs, was that they were applied and are applied to people whom we can neither prosecute nor deport.

Q167 Dr Huppert: Maybe my question was not quite clear. As I understood it, some of those people were people on whom we, the state, had evidence but could not use it in court. Presumably there is another category where there is no evidence of their committing a crime under UK law.

Charles Farr: I see what you mean.

Dr Huppert: I am trying to understand how many are in each of those two categories.

Charles Farr: The short answer is I am not sure. Your question, as I understand it is, could we prosecute him in a UK court if there were not sensitivities about some of the evidence.

Dr Huppert: Absolutely.

Charles Farr: It is a good question and I understand it. I would have to check that.

Q168 Dr Huppert: Could you say what you can about this case and the broader ones, because it seems to me that we would ideally like to not have anybody in this space, in between conviction and freedom? Understanding whether the issue is about whether we can present evidence or whether they have committed an offence here would be very helpful, but if you can write to us that would be very helpful.

Charles Farr: Sure.

Q169 Chair: The Home Secretary has announced that she is going to look at mosques. There are 2,000 mosques in this country. How is she going to find out which are the mosques that TPIMs people are not going to be allowed to go to? There are an awful lot of mosques. There are 52 in Leicester.

Charles Farr: Yes. I thought it was 1,600 around the country rather than 2,000.

Q170 Chair: There are obviously some that you might not know about. Tell us, this is a big ambitious plan, is it not? What is she trying to do?

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Charles Farr: The Home Secretary has raised the view that, among the restrictions that could be and should be imposed on TPIM subjects, prohibition in certain or all mosques may be one. Those mosques would be determined by understanding from each person subject to a TPIM what mosques they frequent, which is something we would expect to know and do know as part of the oversight that we have over their activities.

Q171 Chair: It is not stopping them going to mosques. It is stopping them going to certain mosques. Is that right?

Charles Farr: It could be either, but certainly—

Q172 Chair: Under the faith, Friday prayers are in congregation. You can pray privately, but Friday prayers are very important to the Muslim community.

Charles Farr: I understand the sensitivity and any step in this direction would obviously have to be taken very carefully and the police and the security service would clearly have a view about whether this was necessary and proportionate and they would put that view to the Home Secretary.

Q173 Chair: You have been involved in these areas for a long time, and you know how important engagement is with communities. I do not want to go back to Mohammed Ahmed Mohammed, but the mosque came out on *Panorama* and said, “If only we had known there was a problem with this guy we would have made sure that we watched him and co-operated with the authorities so he didn’t go into a little room and cut off his tag and put on a burka. We would know what was happening”. Do you think that there is merit in bringing more people on board in this fight?

Charles Farr: I am sympathetic to that view, but we are faced with anonymity orders, as you know, Chair, and we have meticulously stuck to them. I do think it is fair comment that anonymity orders can get in the way of rehabilitation in certain areas. They prevent you doing some of the things that we would otherwise want to do under a prevent programme with this particular group of people.

Q174 Chair: You simply cannot deal with the causes of terrorism unless you engage with the community. They are your eyes and ears, are they not?

Charles Farr: I agree, and with mosques in particular.

Q175 Yasmin Qureshi: Just touching on mosques, I am going to say very clearly that I think the Home Secretary is completely wrong on this searching of mosques. In essence, she could go into any place where there are groups of people. It could be a wedding, a birthday party, a church, a synagogue or a temple where there are groups of people. You go in and you disappear among the groups of people and take your tag off. How would, necessarily, searching mosques prevent this sort of thing from happening?

Charles Farr: I do not think people under TPIMs or control orders would go into some of the other places that you have listed. I think it is very difficult for the police and the security services to monitor people

inside mosques and trying to do so raises privacy issues that are every bit as great as some of those that you have just mentioned, and the Chair has mentioned, about stopping people on TPIMs going to these places themselves. It is a very difficult choice to make, particularly when these people are under anonymity orders and securing the co-operation and collaboration of the authorities of that mosque is, therefore, much more difficult, if not impossible.

I think we are faced with a problem that people who have been under TPIMs may have exploited attendance at mosques for purposes that that mosque, I am quite sure, would not want and would not intend and without the knowledge of the committee that governs that mosque. That is the situation we are finding ourselves in, in this particular case, and we want to try to find a way through it.

Q176 Yasmin Qureshi: There are over 2,000 mosques, as has been suggested. Is it going to be the case then that people are not entitled to go to mosque? That is the only way you then prevent them disappearing, isn’t it? How do you find what is a—

Charles Farr: The Home Secretary has asked us to look at this. This issue will now be referred to a TPIMs group that comprises people from my office, the security service and the police. They meet routinely to look at these cases one by one and to assess whether the restrictions are appropriate, proportionate and necessary. They will take on board the Home Secretary’s statement and intent and will look at the specific issues of mosques. We will see where they come to and we will put that back to the Home Secretary.

Q177 Yasmin Qureshi: We have heard earlier today about the number of occasions when people on TPIMs or control orders have absconded. None of them, apart from this one, was in any mosque, were they?

Charles Farr: I would have to go back over all the abscond records to determine whether there was—

Yasmin Qureshi: I am sure that if they were, it would have been mentioned in the media or something.

Charles Farr:—a consistent theme from mosques. It is not something I have in front of me.

Q178 Yasmin Qureshi: Can I just come on to the issue about counter-terrorism and our liaison and working with other countries in particular? As we know, some of the terrorist plots have significant overseas connections. I just wanted to explore with you what kind of things the Government are doing with other countries and multinational organisations and agencies to better tackle the threat of terror attacks or whatever to the United Kingdom?

Charles Farr: One of the key elements of this part of our counter-terrorist work, Pursue, has been to join up local activity in this country with activity overseas so that we have a seamless effort that takes us from this country to points overseas with which operations in this country may be connected, and back again. We have put in a lot of work in this country; a great deal of investment into local policing but, equally, we have put a lot of investment into our relations with key states overseas from which terrorist attacks against

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this country might be conducted or with which people in this country may be dealing in connection with terrorist-related activity.

There is obviously a list of those; Pakistanis historically being very much towards the top, but at the moment North Africa, the Gulf and East Africa are also very important to us. In some of those countries the capacity of the Government and the law enforcement agencies to do counter-terrorism is very limited, and it may be part of our job to build that capacity so that we have something to talk to and something to work with. In recent years, that has become more complicated because we have found a need to build compliance as well. In other words, it is not enough to build the capacity of a police service. You have to build its compliance with international human rights law and standards.

We embark on, with our Foreign Office colleagues, a great deal of work of that kind across a wide range of countries. Some of that work is done in association with DFID, whose development programmes, particularly those that connect to and are about good governance, are very relevant to some of what we are trying to achieve as well.

Q179 Yasmin Qureshi: What counter-terrorism role does the Metropolitan Police have overseas and how much are we spending on this aspect of the work?

Charles Farr: The Metropolitan Police has a number of national police functions as well as functions specific to London, and one of those is to manage the counter-terrorism liaison network overseas, which comprises police officers—they are not all from the Metropolitan Police—located in a number of countries overseas, particularly those of high priority to us. They are funded by us. The cost is some low millions of pounds, and they play a vital role in collecting evidence and in building capacity in the way that I have just been describing.

Q180 Yasmin Qureshi: Can I just ask for an example of one of these overseas capacities which has positive impact on our interests at home and abroad?

Charles Farr: Sorry, asking for—

Yasmin Qureshi: Is there an example of one of those capacities?

Charles Farr: I could talk to you about what we are trying to do in Pakistan, because I think it is particularly interesting. Eighteen months or so ago we agreed with the then Government of Pakistan that we would lead a major effort to build the capacity of their judicial system to collect evidence on terror suspects and to prosecute them and to hold them securely in their prison system. This is a very big programme. It is bigger than us. We can't do it all on our own, but international partners are assisting with it. I think it has been very successful. It has led us into forensic training, training prosecutors, training judges and advising on the reform of the Pakistani prison system. That is a good example, to me, of capacity building that helps Pakistan. It helps us because some of the people they are arresting are of interest to us, and it is compliant with human rights legislation and our standards.

Q181 Ian Austin: I want to talk about people from the UK travelling to fight abroad but, before I do that, can I just return quickly to this issue about Mohammed and the TPIM? Do you think it would have been easier or more difficult for him to have absconded had he been subject to a relocation order of the sort that existed under the previous regime?

Charles Farr: I would be hesitant on this point. I do not believe that a person who is determined to abscond would necessarily be dissuaded by the fact that they were living in a city in the UK from which they did not originally hail.

Q182 Ian Austin: But is it not a fact that under the original regime there were no relocation orders and seven people absconded; relocation orders were introduced and no one absconded; then they were dropped and two people have absconded? That suggests that relocation orders have been a useful tool in preventing people from absconding.

Charles Farr: I think if you are going to compare control orders and TPIMs you have to compare them in a rather broader way than that. Both have characteristics that are relevant. On the specific issue of relocation, I would simply stick to my point that I have seen no evidence that people who are determined to abscond from their orders, be they control orders or TPIMs, are going to be dissuaded by the fact they are living 100 miles away from their home city.

Q183 Ian Austin: I want to move on to this issue about people from the UK travelling to fight abroad. On the point that the Chairman was raising about his passport, how many other people who have been fighting abroad as he was have we enabled to return to the UK? Would it not have been better for us to have encouraged the people who detained him abroad to prosecute him there, and why didn't that happen?

Charles Farr: It does happen.

Ian Austin: It didn't in his case. How many other people have returned—

Charles Farr: It did not in his case because the Somaliland authorities told us—and this was the basis for everything that followed—that they did not have the evidence to prosecute Mohammed in Somaliland. That was what triggered the obligation placed on us to facilitate a deportation back to this country; in exactly the same way as, if we were holding a foreign national in this country and we could not prosecute, we would want to facilitate a deportation in the other direction. It is precisely the same point.

Q184 Chair: Just on that point, it would be extremely helpful if you could send the Committee the request from the Somalian Government that he be returned to the United Kingdom, because this is an essential part of the evidence you have given today. You keep saying to us that we had to do this. It is an obligation, which some of us do not recognise when it comes to other countries. But if you could send it as a result of what Mr Austin has said, please send us that information.

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Q185 Ian Austin: How many other people do you know of that we have enabled to return in similar circumstances?

Charles Farr: UK nationals who have been arrested for terrorist-related activity overseas, who are not nationals of any other country and who are deported back to here?

Chair: No, I think he wants the opposite. How many deals have you made to keep them abroad? Is that right, Mr Austin?

Charles Farr: We would not make a deal to keep them abroad. The only circumstances in which we—

Chair: But you just told this Committee that there are examples of people who have been left in those countries.

Charles Farr: Only where they have been prosecuted by that country.

Chair: Yes. I think Mr Austin wants to know how many.

Charles Farr: Off the top of my head I have no idea.

Chair: Could you write to us with that?

Charles Farr: Yes, we can certainly try and check that. Chairman, if I understand, therefore, the question is, how many people of British nationality have been convicted overseas and imprisoned overseas for terrorist-related offences?

Chair: No, how many people in the same position as Mohammed Ahmed Mohammed who have not been convicted and prosecuted have the authorities turned to you and said, "Please have them back, we don't want them", and you have turned around and said, "We will have them back"? Is that it, Mr Austin?

Ian Austin: Yes.

Chair: Please proceed, Mr Austin. You have other questions.

Q186 Ian Austin: Can you tell us a little bit about the work we are doing with other European Governments to identify people who have travelled abroad to engage in Jihad or terrorist-related activities and to what extent you think these people pose a direct threat to the UK either here or our interests overseas?

Charles Farr: A great deal of work goes on, mainly operationally, between the agencies and between law enforcement to identify people across Europe who are travelling to fight in areas of Jihad. Of course, the most important for us at the moment is Syria. We in this country and many other countries have seen nationals travelling to Syria to fight, and sometimes they return here as well. There is a lot of collaboration going on to identify those people and to understand how best they should be managed.

Q187 Ian Austin: This point about the threat that they might pose to the UK or our interests overseas?

Charles Farr: Yes. I am sorry I did not address that point. I think the threat is varied. Some of those people may pose a threat when—if I take Syria as an example—they get to Syria and they may, from their base in Syria, plot attacks back in the UK. Others may pose a threat to us when they travel back from Syria themselves and they plan attacks here, either under the instruction of people outside this country or at their own initiative. Foreign fighters, so called, in this

particular case British residents or nationals, pose a threat in a variety of different ways to us.

Q188 Ian Austin: Do they generally know who they are going to link up with when they get to Syria or do they go and then make contact with people? How does it work?

Charles Farr: I think generally they go and make contact when they are there.

Q189 Ian Austin: I am just interested in this. Some people would suggest that the west's failure properly to support rebel forces in Syria who are more pro-western and more pluralistic has meant that very extreme elements among the rebels have been strengthened and are now dominant. Would it follow then that people going from the UK are more likely to fall into the hands of more extreme people because the west has not supported more western or pluralistic forces among the rebels? Do you see the point I am making?

Charles Farr: I do. I think that is very hard to demonstrate and prove, obviously. A lot of money has gone into and has been raised by groups in Syria associated with Al-Qaeda or are sympathetic to it, and I am not sure how much it was ever within our power to do anything about that. Those groups are powerful and people are attracted to them, not just because of their ideology but because they may be effective fighting forces who can best offer them protection as well as opportunity.

Q190 Chair: Mr Austin has raised a very important point that is going to be relevant to our inquiry. Is there an increase in the number of British citizens who are going abroad to fight in conflicts like Syria, Afghanistan, Iraq and especially the Horn of Africa? Is this on the increase? Is this a worry? Should we be concerned about it?

Charles Farr: I do not think there is an issue at the moment in Afghanistan or in Iraq. There certainly is an issue in Syria. I think it is very hard for us to say whether the numbers are increasing. They do not need to increase to be a big problem.

Q191 Chair: Are we talking about hundreds?

Charles Farr: Yes.

Q192 Chair: Hundreds of British citizens?

Charles Farr: Hundreds of British citizens have either been to Syria and come back or have been to Syria and are still in Syria.

Q193 Chair: Are we tracking them? We do not have exit checks as yet. It would be helpful to have exit checks, would it not, at airports?

Charles Farr: Exit checks are only one tool that you can use to try to deal with this problem. I would think the more important one from our point of view is e-Borders, which you are very familiar with.

Chair: e-Borders?

Charles Farr: The e-Borders tracking system is essential and we have put some measures in on top of e-Borders to try to make it even more effective with people who we think pose a very significant risk, who

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may be going into and, in particular, coming out of Syria.

Q194 Chair: You are telling this Committee that this in the hundreds?

Charles Farr: Yes.

Q195 Chair: Some Governments are more friendly than others. Presumably you cannot do business with the Syrian Government. They are not going to help you particularly or us, but other Governments perhaps are more helpful like Kenya. You would be able to go to them?

Charles Farr: Yes. I did not answer your question about—

Chair: Africa.

Charles Farr: Yes, Somalia. People are travelling to Somalia but not nearly in the numbers that they are traveling to Syria. I think one of the reasons for that—and it goes back to Mr Austin's question—is that it is easy to get into Syria, mainly through Turkey. Turkey, of course, is a four-and-a-half hour charter flight away. It is an easy route to take, much easier than recent Jihad destinations; either Somalia, Mali, of course, or indeed Afghanistan.

Q196 Chair: They would go to Turkey and from Turkey or other countries like that they would make their way. E-Borders will only tell you where you book your ticket to on your first destination. If you then arrive in Turkey and book a ticket to go to Somalia, that would not be picked up by e-Borders, would it?

Charles Farr: I don't think people would go through Turkey to go to Somalia. Turkey is a route into Syria, overland of course. As you implied earlier, the route into Somalia is often, but not only, Kenya. E-Borders is only one of a number of tools. I think it is particularly important I raise that in the context of exit checks. There are other tools that we obviously need to track people. However, it is very far from being the case that we know the identity of all the people who are going to these theatres of Jihad. Some are not previously known to us and it is certainly not the case that everyone who is going to Syria is going for terrorist purposes. A lot of people are going for humanitarian reasons.

Q197 Chair: Of course. But if you go to Yemen, for example, you have to go to the Yemen Embassy in order to get a visa to go to Yemen.

Charles Farr: Yes.

Q198 Chair: Are we asking and working with Governments like Yemen?

Charles Farr: Yes.

Q199 Chair: They will give you information as to who has applied?

Charles Farr: Subject to human rights considerations, which you are very familiar with.

Q200 Chair: Also data protection, of course, and all the other things.

Charles Farr: All those things. We would be wanting and do work with the Government on that.

Q201 Chair: Is there an age profile for these Jihadists?

Charles Farr: Yes, the usual age profile that applies to people who are of interest to us in a lot of different terrorist scenarios.

Chair: Which is what?

Charles Farr: 19 to 30.

Q202 Michael Ellis: Mr Farr, I would like to move on now, if I may. Just before I do so, though, on the Mohammed issue you have pointed out how he was effectively playing the criminal justice system. Those are my words. Is it correct that he was taking civil action against the British Government for damages in any respect? Was he suing the British Government?

Charles Farr: Yes. The chronology I gave you, which I thought was complicated enough, is more complicated because he has taken out a civil damages action against the British Government in connection with his deportation and arrest in Somaliland.

Q203 Michael Ellis: Surely it could be our turn to stay that because he has now absconded. Are we applying to the courts to stay the action against us?

Charles Farr: The CPS is looking at how to deal with the various legal applications he has against us.

Michael Ellis: Right. I think you are going to provide the Committee with a chronology.

Charles Farr: We will give you a chronology, yes.

Q204 Michael Ellis: Can I move on to communications data? David Omand, former head of GCHQ, made a recent assertion on BBC Radio, I think it was, about GCHQ's capabilities and I want to ask you specifically in connection with communications data. He was being asked in connection with the Snowden leaks and I will come to that, but is it your strong assessment as Director General of Security and Counter-Terrorism, that communications data are necessary and, if so, why?

Charles Farr: It is definitely my assessment that communications data are necessary. They are necessary for the investigation of any crime that is being committed over the internet, cybercrime or cyber-enabled crime. That is certainly the case. It is also my assessment that communications data legislation is necessary and, more importantly, that remains the view of the Home Secretary who, as you know, continues to believe that communications data legislation of some kind is essential to enable law enforcement and intelligences agencies to do their job.

Q205 Michael Ellis: I should say I sat on committee looking at the draft Communications Data Bill with Dr Huppert and others. Is it still very much the assessment of you as Director General of Security and Counter-Terrorism that that is an essential cog in the wheel of the fight against terrorism in this country?

Charles Farr: I know that it has been claimed that GCHQ programmes that have been exposed by Snowden and publicised in the press allegedly indicate that GCHQ has been collecting all the

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communications data that we were trying to obtain through legislation. That is not the case. It is incorrect. GCHQ has never collected the data required by law enforcement agencies and other agencies in this country and it never would and it has never been considered that it should collect those data either. GCHQ and GCHQ capabilities are not relevant and are not a substitute for communications data legislation.

Q206 Michael Ellis: That could not be clearer. Dealing with a point that you made, the head of MI6 and the others went to the Intelligence and Security Committee last week. The head of MI6 said that terrorists were effectively rubbing their hands with glee at the Snowden leaks. It is quite clear that chatter has been picked up that indicated that terrorists were very pleased indeed with what Snowden had done and what had been published in the *Guardian*. Is it your position, as Director General of Security and Counter-Terrorism, that you agree with that assessment from Sir John Sawers, the head of MI6?

Charles Farr: I agree with everything that has been said, both at the hearing last week and previously by Andrew Parker and others. I think the key point is very simple. By revealing secret capabilities and techniques, Snowden and others have made those techniques and capabilities less effective. It is factually wrong to claim that those techniques were already known to terrorists and terrorist groups. The basis of those claims, which I continue to hear, is very unclear to me, but we do not believe them to be true.

Q207 Michael Ellis: Is it within your knowledge, as it is with Sir John Sawers at MI6, that terrorists are rubbing their hands with glee? You might use a different phrase. I invite you to do so if you wish, but is that within your knowledge? There are those who are asking for evidence. I can understand why you might not be able to provide evidence, but are you satisfied in your own mind that dangerous persons are extremely pleased with what has happened?

Charles Farr: I am completely satisfied about that and, of course, it is not just terrorists who fall into that category. There are lots of other bad people out there who are, as John said, rubbing their hands with glee as well. I think you are right that it is illogical to expect the Government to identify what capabilities have been made less effective and how, because the effect of doing so would be to make them even less effective than they are already.

Michael Ellis: I would not want you to do that.

Q208 Chair: On what you saw in the *Guardian*, did you discover anything—you do not have to tell me what was secret and what was not—that you did not know about? I would have thought that you, the head of the office of Security and Counter-Terrorism, would know all this stuff. Was there anything new that you read in the *Guardian* that you would not have seen in your confidential briefings?

Charles Farr: There was material in the *Guardian* about NSA that was completely new to me.

Chair: Really? So it was fresh information.

Charles Farr: There was material in the *Guardian* and other outlets, of course, about NSA that was completely new to me.

Q209 Chair: It would not have come through your usual network and the cooperation with other agencies?

Charles Farr: No, nor would I expect it to. I do not believe I need—

Q210 Chair: Was that confidential?

Charles Farr: Yes. Secret, not confidential.

Q211 Mr Winnick: Stuff that came from the National Security Agency?

Charles Farr: Yes.

Q212 Mr Winnick: Like the manner in which the *Guardian* stated, arising from the revelations of Snowden, that the German Chancellor's phone was hacked. Was that aid to the terrorist?

Charles Farr: It is not a matter that has involved me and I hesitate to comment on alleged NSA operations.

Q213 Mr Winnick: Continuing from what Mr Ellis asked you, what do you feel, Mr Farr, about various people who are not necessarily connected with what could be described broadly as the Liberal establishment who have argued since the *Guardian* have published these details that it is worthwhile to have a debate? For example, a former director general of MI5 and a former director of GCHQ have stated that the intelligence agencies need to be more transparent. The former chair of the Intelligence and Security Committee, a Tory peer Lord King, said the laws governing the British Intelligence Agency needed to be overhauled and so on and so forth.

Charles Farr: In many ways I completely agree with them, but I think there is a fundamental distinction between encouraging a debate over the oversight of the intelligence agencies and having effective oversight, which, in my experience, everyone working in the agencies would strongly support, and the public disclosure of secret capabilities, which undermines our national security. Those are two different things. Everyone working in and outside the agency wants effective oversight. I have never met anyone who would think to the contrary. What they would say is that that does not require publication in the national media of sensitive capabilities in a way that is designed to or has the effect of damaging our security.

Q214 Mr Winnick: You may have heard the US Secretary of State being interviewed on the radio today. Mainly the questions were about the negotiations of the Iranian regime, but near the end of the interview he was asked about the Snowden revelations and he said the President was carrying out a wide review of the intelligence gathering that has occurred and whether it was too extensive or not. That would not have happened without Snowden, would it?

Charles Farr: I just want to make one point, if I may, about this. I think some people have assumed that the legal provisions and enablers for the NSA and the United States are the same as those for GCHQ; that

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GCHQ operates under the same legal provisions as the NSA. That, of course, is completely not the case. GCHQ operates under completely different legal parameters and does things in a rather different way. I think one should be careful about drawing analogies between NSA and GCHQ. They work very closely together, but not in every respect and they do not work in systems that are identical. I hear what you say, Mr Winnick, about Mr Kerry. I can't comment on that. That seems to me a matter for the US.

Q215 Mr Winnick: The *Guardian* and newspapers in the United States, the *New York Times* and the *Washington Post*, in carrying not all—I emphasise not all, as the Prime Minister has admitted as far as the *Guardian* is concerned—revelations from the whistleblower, Edward Snowden. Surely the argument is not that these newspapers want to aid and abet terrorism? What do you think?

Charles Farr: Nor did I suggest that they had set out to do so. What I was saying is that the effect of what has been publicised may be to enable terrorists to do things that they may not have otherwise done.

Q216 Mr Winnick: Mr Farr, you said “maybe”. Despite what you said to Mr Austin, there is no evidence as such—

Charles Farr: I am not going to be drawn on the evidence, for exactly the reason I said earlier—putting that evidence in open forum would merely make the situation we find ourselves in even more difficult.

Q217 Dr Huppert: Mr Farr, I know you choose your words very carefully on all of these things so can I just check that I have understood what you were saying about a couple of issues that were quite interesting? You said that you had learned things about the NSA that you had not previously known from the revelation that occurred. Did you learn anything about activities by GCHQ or any of the other intelligence and security agencies that you did not already know? Again, I do not need to know exactly what.

Charles Farr: I am not surprised in my own mind that I learned things that were new about the NSA. I did not need to know them and, in my view, I do not particularly need to know them now, but I do. I did not learn things that were new about GCHQ capabilities. I did learn things that were new about GCHQ-specific operations and, again, I would not have expected or needed to know about those operations in the job that I hold.

Q218 Dr Huppert: You also said to Mr Ellis—and I am now paraphrasing, I did not get very good scribbled notes—GCHQ has not collected the communications data that agencies would need. Could I just check what you mean by that? Are you saying that GCHQ has never collected any communications data about anything in the UK or anything to do with UK citizens? What exactly did you mean, so I don't misunderstand?

Charles Farr: I meant precisely what I said, which is that GCHQ has never and will never collect on their existing legal authorisations the communications data

required by law enforcement agencies in this country and indeed the security agencies and which we were seeking to provide for in the communications data legislation.

Q219 Dr Huppert: When you say “required by”, they do not have any of it at all. Is that what you are saying? They do not collect any information about who rang who or who emailed who. You say they do not have any of that information at all? That seems surprising.

Charles Farr: No, I did not say that. Of course, in their role as a foreign intelligence gathering organisation, they do collect communications and communications data. My point was specifically about the UK and about the data that we were seeking to obtain through legislation, and my point was that GCHQ cannot provide those data themselves.

Q220 Dr Huppert: But if I send an e-mail to the Chair and that e-mail goes out of the country and then back in again on its way, they can collect the communications data once it is outside of the country, if I understand it correctly.

Charles Farr: We are getting into a level of detail that I can't get into in this forum. I would repeat very clearly that GCHQ is not a substitute for communications data legislation and the claim that GCHQ is already collecting the sort of communications data or the amount of communications data that we are seeking through legislation is wrong.

Q221 Dr Huppert: In that case, can I move on to a couple of other issues? We have talked a lot about the effects of some of the Snowden revelations. The ultimate source of the leak was the NSA which has hundreds of thousands of contractors who were able to have a look at material that apparently is incredibly damaging. What steps have been taken, firstly, to make sure that we have better security within the UK, that there are not hundreds of thousands of people who can get access to this, and, secondly, to get the NSA to sharpen up their practices? If they are this lax about our material we should surely be very wary about working with them.

Charles Farr: As you know, that question was asked of the agency heads last week, and I refer you to their reply. Clearly it is an issue and they are responsible for dealing with it, both here and in their discussions with the NSA, but I do not think it would be appropriate—and I apologise—for me to go any further than that.

Q222 Dr Huppert: During the discussions about communications data we had quite a productive exchange about transparency, about how communications data were currently used. As you know, there are 570,000 or so requests, but we do not have an idea of how many people that relates to or what sort of cases that relates to. I think it was question 907. You said you completely accepted that and you are trying to get those data. How much progress have you made on that? I and, I suspect, many people think it would be very helpful to have

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that sort of factual basis. Not about what individual is being monitored, of course, but what the agencies are looking for, what the crimes are or non-crimes, how many people are covered by this and that sort of information that is now routinely produced by Google and others.

Charles Farr: Yes. I am not sure about—

Dr Huppert: I am sorry. The Google requests that they use to make Google reports. They can report how many requests they have had and how many people that applied to.

Charles Farr: I see what you mean.

Dr Huppert: Sorry, that is what I meant.

Charles Farr: I understand. As you know, there were indeed 580,000 or thereabouts communications data requests. You are absolutely right, as we have discussed many times before, that that very large number of communications data requests relates to a much smaller number of people because one person under investigation will lose a lot of different instruments and—

Q223 Dr Huppert: Or requests can be for multiple people, so it could be a larger number as well.

Charles Farr: Yes, in theory, but in practice it is not. It is for a very much smaller number of people. It is right to challenge us, clearly, to produce more data on that. We are doing that and I would prefer to write back to you if I may, Chair, and give you a progress report about what we are doing.

Chair: Please, if you could. That would be very helpful.

Q224 Ian Austin: Without wishing to diminish the importance of Members of this Committee, are there any circumstances you can envisage under which the security services might stop monitoring the people on TPIMs, the 2,000 people on the watch list, people travelling abroad to Syria, and start to look at e-mails from Mr Huppert from the Chairman of the Committee? I mean it is just fanciful nonsense, isn't it?

Yasmin Qureshi: It is not fanciful.

Q225 Ian Austin: The secret services are not interested in this stuff, are they? They are far too busy—

Charles Farr: I can only agree with you profoundly. There are no circumstances in which they could or would do that.

Q226 Ian Austin: Exactly, and I think it is important to recognise that, because there is some general scepticism and suspicion about the work of the security services on this, but they are not interested in text messages and emails sent by members of the public to other members of the public, are they? You talked and last week the heads of the intelligence services talked about the damage done by *The Guardian's* leaks in terms of the information they published, but can I ask you for your assessment of how responsibly you think *The Guardian* acted in handling that information. Oliver Robbins, who is the Deputy National Security Adviser, called into question the way the information had been handled.

He said that it was being transported without proper security controls; that, while much of the material was encrypted, among the unencrypted documents was a piece of paper that included the password for decrypting one of the encrypted files. How responsible was the way *The Guardian* handled this information?

Chair: Some of those issues are sub judice, so if you can confine yourself to—

Charles Farr: I know. I understand the question. I would rather—

Ian Austin: All of that was published in *The Telegraph*.

Chair: It was published in *The Telegraph*? It must be true then, so you can comment on it.

Ian Austin: It might not be true, but I should think it is not sub judice.

Chair: No, quite.

Charles Farr: May I answer the question in a rather broader way, given the legal sensitivities around some of this, which I do think is still present? I would simply repeat what I have said already. The exposure of the information that was, in my view, stolen by Snowden—58,000 documents from GCHQ, all of them secret—reveals capabilities that we have and makes them less effective. There is no doubt about that.

Ian Austin: Could you speak up a bit? I can't—

Charles Farr: Yes, I am sorry. I was merely saying that the exposure by Snowden of the documents that we removed from NSA, including 58,000 from GCHQ, has had the effect of eroding the capabilities that are the basis for our national security, some of the capabilities, and that has done and will continue to do us damage in the future and I would prefer, if I may, to leave it there rather than discuss *The Guardian*.

Q227 Yasmin Qureshi: Regarding the Snowden leak, you said there was the aspect about damaging operational capabilities, I think. Obviously, without going into details of what we are talking about here, are you talking about things like investigations that have been carried out by the intelligence services in different parts of the world, that kind of information?

Charles Farr: No, I am not talking about that and it is important that I do clarify that, if I left you with that impression. I am not talking about specific operations or at least not only about specific operations. I am talking about general capabilities, things that the agencies can do. It is both of those that, once exposed, become less effective.

Q228 Yasmin Qureshi: Can I then ask this other question? I know some people may accuse me of being liberal on these issues, but we have known historically, I think for decades, that virtually every country in the world will carry out surveillance, phone tapping, look at taxis, e-mails of various people, whether they are nationals or they are Angela Merkel or whether they are other people, if they think that person is of interest to them. We know as far back as the 1960s that Harold Wilson at 10 Downing Street was being listened into by the intelligence services of our country. Is there a question of embarrassment, in the sense that people did not realise the extent of the surveillance that there is? I think some of us are aware

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of the fact that there is a much more detailed level of surveillance and of the methodologies like telephone tapping, bugs in the phone, monitoring e-mails.

Charles Farr: I think in general terms you are right, but the material that has been disclosed by Snowden does not describe this in general terms. It describes this in terms of minute detail, and that is the difference. I think it is one thing for people to be theoretically aware of security risks. We are, you are, others are. It is another for them to be told detail about how these operations work.

Q229 Chair: Let us end where we began, which is the concerns we have about the fact that people have disappeared while on TPIMs. While accepting all the evidence we have received from both yourself and David Anderson, this is not something that we particularly want to read about, bearing in mind that there are so few people on it. About 20% have now gone off and absconded. Is it an operational issue? We have talked about the police, and we know you are not here to make policy. You implement it, though of course you are one of the Home Secretary's principal advisers on this issue. I am looking at the budget of the Single Intelligence Account that you, in the end, control of £1.9 billion, and the Metropolitan Police's counter-terrorism budget of £567 million. That is a huge amount of money and, at the end of the day, what people read about is when somebody gets into a mosque and puts on a burka and leaves their tag and somebody else hails a taxi. Ibrahim Magag has still not been found a year later. The Home Secretary comes to the House. She raises reporting restrictions. There is a great drama, pages and pages of newsprint about this. Is it an operational problem in the end?

Charles Farr: May I correct one thing first?

Chair: Yes.

Charles Farr: I do not have responsibility for the agency budgets. That is not my responsibility.

Chair: Who would have?

Charles Farr: The Cabinet Office, in particular. We have responsibility for some aspects of those. However, your main point is different. It is true that the agencies do have very big budgets and you are right in that the CT police network here receives £570 million. By the way, on top of that is the additional money that was provided under the TPIM package, which is how I see it.

Chair: How much was that?

Charles Farr: May I just say that it was tens of millions, so it was substantial. That being said, you will recall that Andrew Park, in his speech last month or the month before, quoted the figure of 2,000 people of interest to them in this country. That is merely one aspect of agency business in this country and controlling even a percentage of that number is a very challenging and resource-intensive task and, as I know from first-hand experience in a variety of different jobs, is very expensive. These figures that you quote, accurately, are very large, but so is the size of the challenge we face just on CT much less before you include other issues that the agencies deal with as well, both in this country and overseas.

Q230 Chair: We never get to hear about, except during the trial, all the plots that have been uncovered and all the disasters that have been averted.

Charles Farr: Yes.

Q231 Chair: Obviously you do not control the press, nobody does. We have a free press in this country, but a lot of attention is directed—one man disappearing in a burka must take up a huge amount of your time, combined with all the other stuff that you deal with.

Charles Farr: Yes. You are getting to an issue that I did want to raise if I had the opportunity, so perhaps I can.

Chair: Please.

Charles Farr: There are eight people currently on TPIMs. There were 52 people ever on control orders. Andrew quoted a figure of 2,000 of interest. Control orders and TPIMs, executive orders of any kind, have only ever applied to a tiny fraction of the number of people of interest to us in this country and the number of people who are of operational interest at any one time. I think it is important to keep the issue of these executive orders, be they control orders or TPIMs, in perspective. They apply to a relatively small number of the people who concern us, and they are not necessarily the people who are the most immediate threat either. They are, as you know, the people whom we can neither prosecute nor deport and feel as though we have no alternative but to put on an order of this kind.

Q232 Chair: But you are satisfied that the state of the security services and our counter-terrorism policy and the operational part is in good order?

Charles Farr: You are doing your work on this, so I will be very interested to read your conclusions. My view is that we have developed over the past 10 years or so here, with a great deal of funding, a very sophisticated Pursue operation within a strategy that is as good as any you can find around the world. Occasionally, it will not deal with all the risks that we want because any programme of this kind cannot reduce risk to zero. I think we have to accept that, but with that proviso, it is as good as the system in any other country and better than the system that we have had at any stage before.

Q233 Chair: Are you happy that the internet companies are doing their best to insure that the Jihadists and those who use the internet and social media are not allowing abuse of this medium that seems to have grown? It used to be, "Go to Madrassa and be radicalised". Now it can happen in a room on the internet, can't it?

Charles Farr: Your Committee has reported on this before in the context of your Prevent work and I think you, in that work, identified some of the big challenges. Those challenges have not gone away and I certainly would not say that we yet have the relationship with all communications service providers on matters relating to terrorism that we would like. You put forward the view in your report that we should have a code of practice, and we are taking that up now. The Minister for security, who I am sure will talk to you, is talking to a wide range of

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CSPs about that, but there are many other areas where we need help as well.

Chair: Of course. Mr Farr, thank you very much for coming today.

Tuesday 3 December 2013

Members present:

Keith Vaz (Chair)

Ian Austin
Nicola Blackwood
Michael Ellis
Paul Flynn
Dr Julian Huppert

Yasmin Qureshi
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: **Alan Rusbridger**, Editor, *The Guardian*, gave evidence.

Q234 Chair: I welcome to today's session our witness Alan Rusbridger, the Editor of *The Guardian*. Mr Rusbridger, you are giving evidence as part of the Committee's inquiry into counter-terrorism. Thank you very much for coming here this afternoon. Could I refer all those present to the Register of Members' Interests where the interests of the members of this Committee are noted. Could I ask other members to declare any special interests?

Dr Huppert: I have written two articles for *The Guardian* on this issue for which, as a pleasant surprise, I was paid. I need to draw the Committee's attention to this.

Q235 Chair: Thank you very much. Of course I should say that we are all *Guardian* readers, some more avidly than others, so we all declare our interests. I did read it this morning.

Mr Rusbridger, could we start with some facts and then members of the Committee will come in and probe you on a number of issues? There was reference made in some newspapers that you have been compelled to come here against your wishes. We wrote to you and invited you to come here and you are here as part of that inquiry. You do not feel under any compulsion, do you?

Alan Rusbridger: I was not aware it was optional, but I am glad to be here anyway.

Q236 Chair: Well, you said yes, so there was no need to take that further. On the question of facts, you said very clearly in your written evidence to this Committee that you have published only 1% of the information that you have from Mr Snowden. Is that still correct?

Alan Rusbridger: It is approximately correct. Remember we continue to publish stuff, but it is about 1% of what we were given.

Q237 Chair: As far as I can see, you have had 58,000 files. Are you telling this Committee that only 1% of the information in those files has now gone public?

Alan Rusbridger: Yes.

Chair: Where are the other files?

Alan Rusbridger: Can I give some general context that I think would help you understand about this, because I think it is important to realise that initial leak from Edward Snowden—

Q238 Chair: We will come to that in a minute, Mr Rusbridger. If you could just establish the facts for me, and please do put it in context. These are factual questions the Committee would like to ask. You have a lot of files, 58,000 files; you have published 1%. Where are the other files?

Alan Rusbridger: Well, as I would have explained, this is an ongoing story that we are writing. If you think it is sensible that I talk here about where the exact files are I am happy to write to you, but I am not sure that that is a sensible thing to do about the existence of other files in different bits of the world.

Q239 Chair: Are there other files under your control in different parts of the world?

Alan Rusbridger: There is one file that we hold jointly with *The New York Times*, which is obviously in New York.

Q240 Chair: This is important in respect of the inquiry. Obviously the context is important but there is criticism that some of these files may not be under your control. Are they all under your control one way or the other?

Alan Rusbridger: No. One of them, as I would have explained—I think it would be helpful if I could give some context because it is important to understand that there were four different sets of information that went to four different parties in four different countries in three different continents. It is important to establish that to begin with. One of them was *The Guardian*, one of them was the *Washington Post*, clearly not under my control. One went to Rio and one went to Germany. That is the hand of cards we were all dealt—*The Guardian*, the security services, Governments. So I cannot obviously say that *The Washington Post* files are under my control, because they are not.

Q241 Chair: No, of course not. We are in touch with *The New York Times* and we may take evidence from *The New York Times* in the future, written or oral. But in terms of the files under your control, 99% of which have not been published, you have full control, you know where they are, they are secure and in a place where you feel they cannot get into other people's hands?

Alan Rusbridger: I believe that to be true.

Q242 Chair: You also said in reply to our parliamentary colleague, Julian Smith, in a letter that was published that there are 850,000 people in the world who have the same information as you have in those files.

Alan Rusbridger: This goes to the original leak, which is obviously the thing that people are most concerned about. We were told that 850,000 people had access to the information that a 29-year-old in Hawaii, who was not even employed by the American Government, had access to.

Q243 Chair: Is this 850,000 people a figure given to you of people who have security clearance or would know what was in the files that you have?

Alan Rusbridger: Obviously people were aghast. I think people at GCHQ were aghast that a 29-year-old in Hawaii, not even employed by the American Government, could get access to their files. I was told the figure was 850,000 people who had that kind of access.

Q244 Chair: Obviously there is a lot of controversy regarding your publication of this information. Is part of the defence that you may have this information but so do 850,000 other people and they are also in the same position if they choose to be, as Mr Snowden was, to release this information—that there is safety in numbers, in other words?

Alan Rusbridger: I think the point is that twice in the last three years these giant databases that were created after 9/11 have proved porous. These secret things have escaped and that is because so many people have access to them. That is the only point that I think we were trying to make. People use the word “catastrophe” or the fact that there has been this catastrophic loss and have compared it with Maclean and Burgess, Philby, all kinds of things. That was down to the original leak, and that was because this 29 year-old, who was one of hundreds of thousands of people, had access to information. I am sure it is something that everyone must now be considering what to do about it.

Q245 Chair: In respect of what was said to our sister Committee, the Intelligence and Security Committee, you were severely criticised. You were perhaps not criticised personally but your newspaper certainly was, and so was the decision that you took, by the heads of the security services, and this is your opportunity to answer them. Mr Andrew Parker described what you and your newspaper did as a gift that our enemies needed to evade us and to strike us at will. I am sure you have heard this phrase before. John Sawers, the head of MI6, said that our adversaries were rubbing their hands with glee. All heads of the security services were very clear in their evidence to the Intelligence and Security Committee that you had damaged this country as a result of what you had done. Clearly other editors took the decision as well. We know it has been in *The New York Times*, *The Washington Post*, *El País*, *Le Monde* and other newspapers, but they are not before us today. Do you recognise what you have done? Do you accept that this has damaged the country? This is severe criticism

that I have not seen before from the head of our security services.

Alan Rusbridger: I think it is an important context that editors of probably the world’s leading newspapers—in America, *The Washington Post* and *The New York Times*—took virtually identical decisions, so this is not a rogue newspaper. These are serious newspapers that have long experience of dealing with national security. The problem with these accusations is that they tend to be very vague and they are not rooted in the specific stories. You have quoted two. I would like to quote four people back at you who have told me personally there has been no damage or who have not seen it. You took evidence I think last week from Norman Baker, the current Home Office Minister—I will not repeat that evidence—who said he had seen no damage.

Chair: Yes, that is right.

Alan Rusbridger: The second person we have consulted is a member of the Senate Intelligence Committee, so somebody who is sitting in oversight of all the intelligence and has seen it all. He asked not to be named, but we asked him because we want to know, “Have you seen anything *The Guardian* has published that has caused damage?” and he said, “I have been incredibly impressed by what you have done, how you have done it. You have written about the scope and the scale. I have seen nothing that you have done that has caused damage.” We asked the same question of a senior administration official in the current Obama Administration who told us last week, “I have been incredibly impressed by the judgment and care that you would expect from a great news organisation”. Finally, a senior Whitehall official at the heart of these stories said on 9 September, “I have not seen anything you have published to date which has risked lives”. So there are different views about this and I listen with respect to the views that you have given, but I do not—

Q246 Chair: But you disagree with them?

Alan Rusbridger: Well, it is not that I disagree. It is impossible to assess, because no one has given me specific evidence and I hear the contrary from respected people.

Q247 Chair: The real criticism is that the information that you have contains the names of individual security officers, and this has been sent around the world, sometimes paid for by *The Guardian*, and these names are of our security officers, people who are there to protect our country. That is how you have damaged the country, because others who do not have security clearance have been able to read these names, know who they are and possibly know where they live. That is the damage that they allege you have done.

Alan Rusbridger: First of all, we have never used a single name. I think that is the crucial bit. We have published no names and we have lost control of no names. It has never been a secret that these documents contain names. A lot of them are PowerPoint presentations given by named individual. From the beginning of June when we published the first presentation we redacted the name of somebody. It

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was apparent that these documents had names, and then the material was seized off David Miranda under the terror laws. It is apparent from the witness statements that the Government knew then, although I would say they knew already, and in fact we discussed the use of names with the Cabinet Secretary when he visited us in mid-June. So there have been six months when it has been apparent that there have been names in these documents. I told the Cabinet Secretary personally that we were sharing this material with the *New York Times*. On 22 July I gave the editor of *The New York Times* phone number, email address, and Stephen Engelberg from *ProPublica*. Not once in six months—

Q248 Chair: I find it difficult that you are telling this Committee that you can guarantee the security of all the names of these officers.

Alan Rusbridger: Your original question was do I believe that the copy that *The New York Times* has is being held securely. Yes.

Q249 Chair: Well all the copies, anything under your control. You have these names. Can you guarantee that these names will not leak out?

Alan Rusbridger: I can only talk about the copies under the joint control of the *Guardian* and the *New York Times* and I can say that that is being held securely.

Chair: You can guarantee it? Right. Now, both the criticism—

Alan Rusbridger: Incidentally, Chairman, I just want to add that in that six months it would have been open to anybody from Her Majesty's Government to come and ask about the names and that has not happened.

Q250 Chair: Has anyone asked you to destroy this information or hand it over?

Alan Rusbridger: It is a matter of public record that the Cabinet Secretary came and asked me to destroy the entire cache of documents, so yes.

Q251 Chair: Right. But you have not done so?

Alan Rusbridger: No, that is also a matter of public record. No, I told the Cabinet Secretary at the time.

Q252 Chair: Let me ask you this finally before I go to other members of this Committee, some of the criticism against you and *The Guardian* have been very personal, you and I were both born outside this country, but I love this country. Do you love this country?

Mr Winnick: How do you answer that kind of question.

Alan Rusbridger: We live in a democracy. Most of the people working on this story are British people who have families in this country who love this country. I am slightly surprised to be asked the question. But, yes, we are patriots and one of the things we are patriotic about is the nature of the democracy and the nature of a free press and the fact that one can in this country discuss and report these things.

Q253 Chair: So the reason why you have done this has not been to damage the country; it is to help the country understand what is going on so far as surveillance is concerned?

Alan Rusbridger: I think there are countries and they are not generally democracies where the press are not free to write about these things and where the security services do tell editors what to write and where politicians do censor newspapers. That is not the country that we live in, in Britain. It is not the country that America is, and it is one of the things I love about this country that we have that freedom to write and report and to think and we have some privacy. Those are the concerns that need to be balanced against national security, which no one is under-estimating. I can speak for the entire *Guardian* staff who have families who live in this country; they want to be secure, too.

Q254 Dr Huppert: Thank you, Mr Rusbridger, for coming before this Committee. I hope we will have similar co-operation from the intelligence and security services because I think many of us would like to ask them questions. Now that they have established they can answer them in public and it should just be the people that they trust to answer questions, they should be able to answer everyone's. Could I also place it on record briefly that I think *The Guardian* has done a great service to the public debate in this country? I have put that at length elsewhere and we had a Westminster Hall debate on it, and I think it is up to Parliament how to write the rules now.

You have published very selectively. You have taken off these documents only very small elements and published those. If, when you were given the documents, you had refused them and sent them back, what do you think would have happened to the information? Would it have been silenced or would it have been published in some other mechanism?

Alan Rusbridger: That is why I wanted the initial context to be understood. By the way, I do not think there is an editor on Earth who, offered this material, would have sent it back unseen. We asked 30 leading editors in the world to talk about this difficulty of handling secret material and they were all familiar with doing it. They all said they would have done what *The Guardian* did. You look at it and you make judgments. People talk about mass dumps of data. We have not. I think we have published 26 documents so far out of the 58,000-plus that we have seen. We have made very selective judgments about what to print. What would have happened if we had sent it back? That is the whole point of my initial point to the Chairman. Glenn Greenwald had this material in Rio. Laura Poitras had a copy in Berlin. *The Washington Post* had a copy. The thought that this material would not have been published is ridiculous.

Q255 Dr Huppert: As you know, there is a DA-Notice system in the UK that is intended to prevent people being put at risk, particularly where there is real risk to life. Have you had any conversations with the DA-Notice Secretary and have they told you that the material would pose a risk to life?

Alan Rusbridger: Yes, we have. I think we have gone back and counted this. Out of all the stories that we have published, and there are about 35 of them, we have consulted with the relevant authorities on all bar one, which was the first story that we published specifically about GCHQ. I think that was on 16 June. The reason I did not consult with the DA-Notice Committee was a fear of prior restraint, which exists in this country but not in the United States. Since the Pentagon papers case in 1972 it is inconceivable that any American Government would get prior restraint of a publication of this material. That reassurance does not exist in this country. Indeed, we were directly threatened with prior restraint by the Cabinet Secretary and so I did not seek the advice of the DA-Notice Committee on that story.

I have engaged with Air Vice-Marshal Vallance since. I think Air Vice-Marshal Vallance would confirm that we have been in touch and that there was also, to some extent, a misunderstanding that he said extended to the Prime Minister. I think there was a lot of misunderstanding by the DA-Notice Committee because the Prime Minister has talked about threatening people with DA-Notices. That is not how it works. Air Vice-Marshal Vallance says that the misunderstanding is that he would have kept that material confidential from the Government. We have, in fact, collaborated with him since and he has been at *The Guardian* to talk to all our reporters.

Q256 Dr Huppert: Did he give you any feedback as to whether what you are publishing posed a risk to life or not?

Alan Rusbridger: He was quite explicit that nothing we had seen contravened national security in terms of risking life. He was explicit about that. That is not to say he would give us a complete bill of health on things that appeared downstream, but nothing he saw had risk to life and most of the time when we have rung him and put stories to him his response is, "There is nothing that concerns me there. This stuff might be politically embarrassing, but there is nothing here that is risking national security".

Dr Huppert: It seems like you followed established procedure for the vast majority of these things.

Alan Rusbridger: On all but the one story.

Q257 Dr Huppert: You have touched on issues that are of fundamental national importance; fundamental questions about the future of surveillance, information that was not given to us on the Communications Data Bill, and a whole range of things about the future of privacy in a digital age. In Germany there is huge interest in this subject. In the US there is huge interest, with parliamentarians trying to revisit legislation and responses from the President. Why do you think there has been so little interest here? A few of us managed to secure this one big parliamentary debate, but otherwise what we have seen, and even there, was attacks on *The Guardian* rather than Parliament trying to work out what the rules ought to be. Why do you think that is?

Alan Rusbridger: Shooting the messenger is the oldest diversionary trick in the book. I cannot explain why some people have not taken interest in this. My

experience is that, when you speak to people about it and explain the issues, they are deeply interested in it. As you say, in terms of the broader debate, I cannot think of any story in recent times that has ricocheted around the world like this has and which has been more broadly debated in Parliaments, in the courts and among NGOs.

The roll call of people who have said that there needs to be a debate about this include, by my count, three Presidents of the United States, two Vice Presidents, generals, the security chiefs in the US are all saying, "This is a debate that, in retrospect, we know that we had to have". There are Members of the House of Lords, people who have been charged with oversight of security measures here—the former chairman of the ISC, Tom King, said that this was a debate that had to be had and they had to review the laws. The Director of National Intelligence in the US said these were conversations that needed to happen. In terms of the public interest, I do not think anyone is seriously questioning that this leaps over the hurdles of public interest.

Q258 Michael Ellis: Mr Rusbridger, you authorised files stolen by Snowden that contained the names of intelligence staff to be communicated elsewhere, didn't you? Yes or no?

Alan Rusbridger: I think I have already dealt with that. It was never—

Michael Ellis: Could you just answer my question?

Alan Rusbridger: I think it has been known for six months that these documents contained names and I shared them with *The New York Times*.

Q259 Michael Ellis: Do you accept from me that that is a criminal offence under section 58A of the Terrorism Act 2000?

Alan Rusbridger: You may be a lawyer, Mr Ellis; I am not, so I will leave that to you.

Q260 Michael Ellis: 50,000 plus files were communicated by you as editor-in-chief of *The Guardian*. You caused them to be communicated and they contained a wealth of information. It was effectively an IT-sharing platform between the United States and the United Kingdom intelligence services, wasn't it?

Alan Rusbridger: I will leave you to express those words. They are not my words.

Michael Ellis: You decline to answer that. Very well. But that was information that contained a wealth of data, protected data that was both secret and even top secret under the protective classifications of this country.

Alan Rusbridger: They were secret documents.

Q261 Michael Ellis: Secret and top secret documents. Do you accept that that information contained personal information that could lead to the identity, even the sexual orientation, of persons working within GCHQ?

Alan Rusbridger: The sexual orientation thing is completely new to me. If you can explain how we have done that then I would be interested.

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Q262 Michael Ellis: In part from your own newspaper on 2 August, which is still available online, because you refer to the fact that GCHQ has its own pride group for staff. I suggest to you that the data contained within the 58,000 documents also contained data that allowed your newspaper to report that information. Therefore, it is now information that is no longer protected under the laws of this country and it jeopardises those individuals, does it not?

Alan Rusbridger: You have completely lost me, Mr Ellis. There are gay members of GCHQ. Is that a surprise and that they have a—

Michael Ellis: It is not amusing, Mr Rusbridger. They should not be outed by you and your newspaper.

Alan Rusbridger: I don't think it—

Michael Ellis: What about the fact that GCHQ organised a trip—

Alan Rusbridger: Hold on a second.

Michael Ellis: Either you are going to answer the question or you are not.

Alan Rusbridger: If you let me answer, I will answer the question.

Chair: Mr Ellis, order. If Mr Rusbridger could have the opportunity of answering, then please do go on, Mr Rusbridger.

Alan Rusbridger: On the mention of the existence of a pride group within GCHQ, if you go to the Stonewall website you can find the same information there. I fail to see how that outs a single member of the GCHQ.

Q263 Michael Ellis: You said it was news to you. You know about the Stonewall website, so it is not news to you. It was in your newspaper. What about the fact that GCHQ organised trips to Disneyland and Paris? That has also been printed in your newspaper. Does that mean, if you knew that, that information including the family details of members of GCHQ is also within the 58,000 documents, the security of which you have seriously jeopardised?

Alan Rusbridger: Again, your references are lost to me. The fact that there was a family outing from GCHQ to Disneyland—

Michael Ellis: Do you accept that these files contain methods of trapping cyber-criminals like paedophiles and hackers?

Alan Rusbridger: The only story that has been identified to us that resembles that description is the story about Tor and I would welcome the opportunity to talk about that.

Q264 Michael Ellis: No, I would rather you didn't. I do not see any need to further publicise that information. What about the location of safe houses and other safe locations, secret locations; 58,000 documents that contain that information?

Alan Rusbridger: If you don't mind me just referring to Tor, because we are in danger of having a rather analogue discussion about the digital age, the point about Tor is that anybody who is interested in this would have learnt nothing from *The Guardian* that is not available on the Tor's own website, so let us get real about this. There is nothing *The Guardian* published that is endangering people in the way that you talk about that is not there already.

Q265 Michael Ellis: Mr Rusbridger, it is not only about what you have published. It is about what you have communicated. That is what amounts or can amount to a criminal offence. You have caused the communication of secret documents. We classify things as secret and top secret in this country for a reason—not to hide them from *The Guardian*, but to hide them from those who are out to harm us. You have communicated those documents.

Chair: Mr Ellis, is that a question?

Michael Ellis: If you had known about the Enigma Code during World War II would you have transmitted that information to the Nazis?

Alan Rusbridger: That is a well-worn red herring, if you don't mind me saying so, Mr Ellis. I think most journalists can make a distinction between the kind of thing that you are talking about and the Enigma Code or the travel or the troop ships. This is very well-worn material that has been dealt with by the Supreme Court and that you learn when you do your NCTJ course. I can make those distinctions, Mr Ellis, thank you.

Q266 Michael Ellis: Have members of the board of *The Guardian* newspaper conceded to you that the law may have been broken in this matter?

Alan Rusbridger: No.

Q267 Michael Ellis: Have you been told by members of the board of *The Guardian* newspaper that your job is on the line connected with this matter?

Alan Rusbridger: I think you are under some misapprehension, Mr Ellis.

Michael Ellis: I am asking you a question.

Alan Rusbridger: The board of *The Guardian* newspaper, if you understood the structure of *The Guardian*, has no jurisdiction over the editor of *The Guardian*.

Michael Ellis: Did *The Guardian*—

Chair: Mr Ellis, I think this needs to be your final question.

Michael Ellis: No, I think it is less than six minutes, Mr Vaz.

Chair: Mr Ellis, order.

Michael Ellis: I am coming to a conclusion.

Chair: Mr Ellis, order. I am chairing this meeting. This is your final question.

Q268 Michael Ellis: This is not a Labour love-in, Mr Rusbridger, and I am asking you some questions that I think you should answer. Did *The Guardian* pay for flights by David Miranda to courier secret files?

Alan Rusbridger: We paid for Mr Miranda's flights. He was acting as intermediary between—

Michael Ellis: You did pay for those flights? Have they been accounted for as a business expense, those flights? Is the UK taxpayer funding a tax break for the transfer of stolen files?

Chair: You may not be familiar with the tax laws, so I think we will move on to our next questioner.

Michael Ellis: I do not see why you should move on.

Chair: Order, Mr Ellis.

Q269 Mr Winnick: Perhaps you are fortunate not to be in a Moscow courtroom in the 1930s, Mr

Rusbridger, with Mr Vechinski asking you questions. Were you surprised at the amount of intelligence gathering that was revealed as a result of what Snowden gave to your newspaper and other media outlets?

Alan Rusbridger: I think many people are staggered by the amount of—

Mr Winnick: You, yourself, if I may interrupt. Were you staggered and surprised?

Alan Rusbridger: I was staggered. I think we all knew that the intelligence agencies collected a lot of data and people are still trying to make out as though nothing has changed in the last 15 years since the laws were passed. We have a lot of analogue laws that deal with the digital world. I think the last serious law that was passed about any of this material was 2000, which was at a time when Facebook had not been invented and when Google was still doing its initial funding round, and we're pretending that the laws that covered crocodile clips on copper wires are stretchable to deal with the collection of maybe 3 billion phone events and the meta data around those a day. Yes, I think there is a staggering amount of information being collected, which has surprised even those who passed the laws that apparently, I say, authorised the collection.

Q270 Mr Winnick: Would it be right to say that since the reports have occurred, while some senior American politicians in Congress denounce, as one would expect, Snowden as a traitor, others have expressed surprise that their own country has been involved in such intelligence-gathering on the sort of extensive scale as Snowden has revealed?

Alan Rusbridger: The people who are most disturbed by the revelations include the people who pass the laws that are being used to justify it. Senator Sensenbrenner, who is a right-wing Republican who drafted and passed the Patriot Act, was the first person out of the stocks to say that he was appalled that the Patriot Act that he drafted was being used to justify what he regarded as un-American, to come to your question, Mr Chairman, about patriotism. He was appalled. He said, "This is not what I intended by the Patriot Act", and there are currently three Bills in Congress that are being proposed to limit—

Mr Winnick: Arising from Snowden?

Alan Rusbridger: Arising from Snowden and arising from Snowden through newspapers and through our publication, which are being used—and these are cross-party Bills—to limit what is going on. You are quite right to say that people have been extremely surprised at what has been going on and in Congress, at least, there is meaningful oversight where people are now trying to place some limits on what has been going on.

Q271 Mr Winnick: Coming to our own country, would you say that it has changed the course of debate, whether the oversight is sufficient; the subject, of course, of the recent public session of the Intelligence and Security Committee? I am sure we were all impressed by the robust questioning that took place there at the time, but do you feel that it has changed the course of this particular debate how far

Parliament is inadequate at this stage to deal with such a vast amount of intelligence-gathering involving many, many people who are not public figures?

Alan Rusbridger: I think it has absolutely impacted on that debate. I think there are many parliamentarians who are anxious, for instance, about what they were told during the passage of the Data Communications Bill and the so-called capability gap and were rather appalled to learn that stuff that they were being asked to pass was already being done and that this information was not shared with them at the time. I think it comes to the heart of parliamentary oversight and whether what is done in the name of parliamentary oversight is remotely adequate at the moment or whether it is well-resourced enough or whether they have the technological expertise.

I would like to quote one little section because we have now spent about 10 minutes in this Committee discussing leaks that did not happen. The catastrophic leak that did happen was dealt with by the ISC with the following exchange, "Chairman: Can we assume you are having discussions with your American colleagues about the hundreds of thousands of people who appear to have access to your information? Head of MI5: All three of us are involved in those discussions, Chairman. Chair: Thank you very much." That is the only question that has been asked in Parliament about the loss of 58,000 documents through a data-sharing scheme between GCHQ and NSA. If that amounts to oversight, the budget for oversight, even now, is £1.3 million, supposedly a secret incidentally, which is about a third of the amount that Cheltenham Borough Council spends on car-parks.

Q272 Mr Winnick: The Prime Minister in the Chamber said that he wants to reach agreement, or words to that effect, with *The Guardian* but if *The Guardian* is not willing to see the point of view of the authorities then, with reluctance, other measures may be taken. Presumably, he is referring to DA-Notices and the rest. How far do you feel there is a threat to the newspaper if you continue to publish revelations from Snowden? Do you feel under pressure?

Alan Rusbridger: Things have happened in this country that would be inconceivable in parts of Europe or in America. They include prior restraint. They include a senior Whitehall official going to see an editor to say, "There has been enough debate now". They include asking for the destruction of our discs. They include MPs calling for the police to prosecute an editor. There are things that are inconceivable in America under the First Amendment.

Q273 Mr Winnick: Are you under pressure yourself? Do you feel this pressure from the Government?

Alan Rusbridger: I feel that some of this activity has been designed to intimidate *The Guardian*, yes.

Q274 Chair: Thank you. We must move on but, before we do, are you telling this Committee that, as a result of Parliament's failure to oversee the security services and the failure to have the necessary expertise and the failure to have a sufficient budget, that is why

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you were obliged to publish because, had you not done so, nobody would have found out about this?

Alan Rusbridger: The only way any of this information has come into the public domain is through the press.

Q275 Chair: We should look at our structures better?

Alan Rusbridger: We should and America is. Senator Dianne Feinstein, who is the Malcolm Rifkind equivalent in America and who had been supporting the NSA for about three months—the Merkel telephone call happens, they did not know about that—said at that point, “It is abundantly clear that a total review of all intelligence programmes is necessary”. That was the oversight committee saying, “We had no idea what was going on”, and that must be true of our own—

Chair: I am sorry. In respect of our inquiry, you think that it would be good if this Committee looked at the structures of oversight as part of the counter-terrorism structure?

Alan Rusbridger: Absolutely. I think that would have been important to you.

Q276 Mark Reckless: You wrote in your letter of 7 November to Julian Smith that *The Guardian* had not published the names or identifying information for staff of our intelligence agencies and I think in reply to the Chair earlier you added that you had not used or lost control of that information.

Alan Rusbridger: Yes.

Mark Reckless: Can I clarify, though? In your response to Michael Ellis earlier did you say that you had communicated that information to *The New York Times*?

Alan Rusbridger: At the danger of repeating myself, we gave the material to *The New York Times* at roughly the same time as we told the Cabinet Secretary that we were doing that and gave the Cabinet Secretary the name of the editor of *The New York Times* and how to contact her.

Q277 Mark Reckless: You referred earlier to material given to *The Washington Post* not being under your control. Did the material shared with *The New York Times* remain under your control?

Alan Rusbridger: Yes. The material was given to *The Washington Post* by Edward Snowden himself via a journalist called Barton Gellman. The material that we had with *The New York Times* is in the joint control of me and the editor of *The New York Times*.

Q278 Mark Reckless: When you say you had not lost control of the relevant data at any time, does that include the periods when the data was with FedEx, who I understand you have admitted to using to transfer some of that information?

Alan Rusbridger: Yes. No data was lost or we lost control of no data. No names have leaked from *The Guardian*.

Q279 Mark Reckless: I have previously used FedEx. I would not naturally refer to the period while whatever I was sending was with FedEx as being a

period that it was under my control. Is that what you are saying?

Alan Rusbridger: I am saying we have not lost control of it. The reporting of the FedEx transmission was grossly exaggerated. It was reported as tens of thousands of documents including MI5 and MI6 spies. That was not the case. It was a small amount of material relating to one story that was encrypted to military-trade encryption. It was sent safely, arrived safely and did not involve any loss of control.

Q280 Mark Reckless: You referred earlier to the information having commenced with *The Guardian*, *The Washington Post*, Rio, by which I assume you mean Glenn Greenwald, and Germany. Are you saying that all 53,000 files began with each of those four places?

Alan Rusbridger: Can you repeat the question?

Mark Reckless: Before you said *Guardian*, *Washington Post*, Rio—I assume Glenn Greenwald—and Germany. You were saying that the data information had started in each of those four places. Are you saying that all of the 53,000 files had started in each of those places?

Alan Rusbridger: I don't think we know exactly who has what. Probably the only person who knows that is Edward Snowden.

Q281 Mark Reckless: Was there any information that you had at *The Guardian* but that Glenn Greenwald did not until you transferred it to him?

Alan Rusbridger: I don't know the exact answer to that because I don't know who got what in the initial handing out.

Q282 Mark Reckless: Why would *The Guardian* have bothered to transfer information to Glenn Greenwald if he already had it?

Alan Rusbridger: I do not want to get too drawn into the methodology of how we have worked, but—

Mark Reckless: It is an issue, though, of whether you have communicated this information outside your jurisdiction.

Alan Rusbridger: I cannot be entirely sure what Mr Greenwald had separately from us; what is encrypted in different ways; what is held in what way; what he has that Laura Poitras does or does not have. I have seen him on the public record say that he and Laura Poitras are the only people who have complete sets, but I do not know that to be true.

Q283 Mark Reckless: Has he not said on the public record that some files relating to GCHQ that *The Guardian* shared with *The New York Times* were a set of documents that only *The Guardian* had until you did that?

Alan Rusbridger: I don't want to repeat myself too much. I know that Mr Greenwald has GCHQ material that was given to him directly from Mr Snowden, so I can't tell you exactly what we gave him that he did not have already.

Q284 Mark Reckless: I understand if you choose not to answer this question, but do you consider that you have communicated information on the identities of

staff of the intelligence agencies out of jurisdiction contrary to section 58A of the Terrorism Act?

Alan Rusbridger: I think I have answered that to the Chairman.

Mark Reckless: Your answer was not clear, at least not to me.

Alan Rusbridger: I will try to repeat myself clearly. I think it has been apparent to the Government for many months that the material that Mr Snowden leaked included a good many documents that had names of security people working for both the NSA and GCHQ. As I said and I will say it again, I told the Cabinet Secretary in mid-July that we were sharing this with *The New York Times*.

Mark Reckless: Which you would accept constitutes communicating it outside of the UK jurisdiction.

Alan Rusbridger: Self-evidently they work in New York, yes. I have bought this book along with me today. Some of you will be familiar with this. People will remember, in the mid-1980s, the Cabinet Secretary travelling to Australia to try to suppress this book that was written by a former MI5 agent and we had the ridiculous sight of a British Cabinet Secretary trying to stop the publication of something that had already been published in Australia. What was very much in my mind was the ridiculous situation that we would be in if *The Guardian* was the only publication in the world that was not able to publish material that was being published in Rio or Germany or around the world.

Q285 Mark Reckless: You have, I think, Mr Rusbridger, admitted a criminal offence in your response just then. Do you consider that it would not be in the public interest for the CPS to prosecute you or should that be dealt with in the authorities in the normal way?

Alan Rusbridger: I think it depends on your view of free press. In America Attorney General Eric Holder came out within the last two weeks and said that, on what he had seen so far, he had no intention of prosecuting Glenn Greenwald. He has gone further. He said that under his watch as Attorney General of the US he will not prosecute any journalist doing their duty journalistically. In New York within the last month I debated with the former general counsel of the NSA, Stewart Baker, and he makes absolutely the distinction between what Snowden did and what journalists did. He said, "Once the information is in the hands of the journalists that is protected material," and my reading of our own DPP and the guidelines that he laid down during the Leveson process is that public interest will weigh very carefully and very highly in any deliberations he takes.

Q286 Mark Reckless: Did Glenn Greenwald not also make a distinction between journalism, including what he was, according to him, engaged in and what he says *The Guardian* was doing, which was the distributing or indeed trafficking across international borders that information?

Alan Rusbridger: We were sharing this information with journalistic colleagues on *The New York Times* in order to stimulate a debate which presidents and legislatures around the world think vital.

Q287 Chair: Just to clarify, is there a current police investigation into *The Guardian*?

Alan Rusbridger: I don't know.

Chair: Nobody has communicating with you or interviewed you or asked you any questions about this from the Metropolitan Police?

Alan Rusbridger: I have seen Scotland Yard say that they are holding an investigation into the matters generally. No one has told us whether that includes *The Guardian* or not.

Chair: For your records and for public record, the Committee has decided to call Andrew Parker, the head of MI5, in open session next year.

Q288 Paul Flynn: Did you have advance notice of the questions we are asking you today?

Mr Winnick: Including yours.

Alan Rusbridger: I was not. I was told the general areas of concern that might be covered.

Q289 Paul Flynn: Were you stunned at having an open meeting of the Intelligence and Security Committee with their carefully manicured questions and rehearsed answers, a Committee that is accused of being a poodle to many Governments, including being cheerleaders for the Iraq war? Do you think this raises the question that the scrutiny provided by that Committee is inadequate and we need a reform?

Alan Rusbridger: As I said, I think lots of people, including former chairs of the ISC, have said that we need to re-look at the oversight, and Sir Malcolm Rifkind has himself said that he wants to look into his own Committee. I hope this will be an opportunity for people to talk about how oversight could be approved, because I think there is no question that it should be.

Q290 Paul Flynn: The United Kingdom Government's reaction to this has been very different from any other Government and Frank La Rue, the United Nations Special Rapporteur, has said the UK Government's response is "unacceptable in a democratic society", and *The New York Times* said, "The UK Government is challenging the idea of a free inquisitive press". Isn't that true?

Alan Rusbridger: I think what has been going on in the United Kingdom in the last six months has dismayed many people who care about free speech or free press and that includes NGOs. It includes at least two UN Special Rapporteurs. It includes people in Europe and many editors around the world.

Q291 Paul Flynn: Does the fact that a 29-year-old Hawaiian and 850,000 other people had access to the information suggest that our potential enemies have access to it, too?

Alan Rusbridger: It is in the witness statement of Oliver Robbins, the Deputy National Security Advisor, that they have been working on that assumption since Snowden disappeared with the material.

Q292 Paul Flynn: Were you shocked by the revelations of the intense surveillance of allies by this country in a place like the G-20 and so on?

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Alan Rusbridger: Again, there is the question of the public interest; the fact that President Obama effectively had to concede that his country had been bugging President Merkel. There has been no denial from Australia that they were intercepting the phone calls of the President of Indonesia and his wife. That was the thing that led Senator Feinstein to say that she had to review all the activities of the intelligence services because, clearly, this was going on without knowledge. You will remember that the United States came out and said, "Okay, we will stop bugging these gatherings of the IMF", or the World Bank or the European Parliament or all these things that they had been bugging. We do not know, but there were some specific organisations of allies devoted not to espionage or to hostilities but to bridge building and peace making; a lot of institutions set up after the World War II and the United States has come out and said, "We won't be bugging them anymore", which to me is an implicit admission that they were.

Q293 Paul Flynn: Do you think that the reaction of Government was less to do with security and more to do with the fact that we have traditionally been neurotically secretive?

Alan Rusbridger: Funnily enough, the DA-Notice Committee that we have been talking about earlier have just published their minutes of their last meeting in November. That is a meeting of the press side and the official side, and the vice chairman of that body said it was important to distinguish between embarrassment and genuine concerns for national security. The vice chairman felt that much of the material published by *The Guardian* fell into the former category. A lot of this stuff is embarrassing because it has come into the public domain rather than threatening national security.

Q294 Paul Flynn: Would you agree that you have performed a very important public service for legislatures and for everyone else? A difficult question I know.

Alan Rusbridger: There is no doubt in my mind. I will say this again and it is not blowing my own trumpet—

Paul Flynn: Please do.

Alan Rusbridger: Well, it is not done in that spirit; this has been a coalition of newspapers, including newspapers in Europe. If the President of United States calls a review of everything to do with intelligence and that information only came into the public domain through newspaper then it is self-evident, is it not, that newspapers had done something that oversight failed to do? I would say that was true of this country and of the United States.

Q295 Nicola Blackwood: Mr Rusbridger, I am interested to understand how, as an editor, when you come into possession of documents of this nature that clearly indicate a big story for you but also contain very sensitive, national security material, you go about judging what you can publish and what you can't publish.

Alan Rusbridger: I don't know of an editor in the world who does not agonise about these kinds of

decisions in the way that you would expect. We touched on it earlier. We are all patriots and we all care about security.

Q296 Nicola Blackwood: To be more specific, how in this case did you go about it in terms of the specific process?

Alan Rusbridger: I discussed this with colleagues who are some of the most experienced colleagues in Fleet Street in terms of dealing with this kind of material. It is important to know that in the last six months there have been more than 100 contacts with the official side of things. In America that has been with the White House, with the Director of National Intelligence, with the FBI, with the NSA, with the National Security Council and with the Pentagon. In this country it has included Downing Street, the Cabinet Office, the National Security Advisor, GCHQ themselves and the DA-Notice Committee. We have consulted on more than 100 times with the agencies in order to be aware of their concerns before we publish material.

Q297 Nicola Blackwood: I suppose my question is, have you gone through all the 53,000 documents and have some been specifically excluded from publication and will they not be appearing? Have others been put under "Yes, okay for publication"?

Alan Rusbridger: In terms of publishing documents, I think we have published 26.

Nicola Blackwood: Yes, but I am more thinking about the ones that have not yet been.

Alan Rusbridger: We have published a few individual pages from documents that have been redacted. I would not be expecting us to be publishing a huge amount more. With 26 over six months, I would say it has been a trickle.

Q298 Nicola Blackwood: What about the ones that have been communicating to the United States? I understand in some of those the names have been redacted and some of them have not. How did you go about deciding which names to redact and which ones not to?

Alan Rusbridger: Let us be completely clear about this. *The Guardian* has not used any names. On the rare occasion where we have used individual slides from documents that had names on, we absolutely redacted those. It has been said that *The Guardian* used names. We did not use names.

Chair: Mr Rusbridger, you made it clear that no names have been used.

Alan Rusbridger: Yes, but nevertheless it—

Q299 Nicola Blackwood: Yes, but that is not the question that I asked here. Where you communicated the documents to the United States, and in some cases in those documents you did redact the names and in other cases you did not, how did you decide?

Alan Rusbridger: No, you are wrong. I am sorry.

Nicola Blackwood: I am sorry. I thought that was the case.

Alan Rusbridger: No, we have not used—

Nicola Blackwood: You have not redacted any names?

Alan Rusbridger: We have not used any names. We have redacted—

Nicola Blackwood: No, but where you have communicated the documents to other papers that you—

Alan Rusbridger: I see, before transmission?

Nicola Blackwood: Yes.

Alan Rusbridger: Yes, you are quite right.

Q300 Chair: Sorry, what is she right about? I am confused. Is she right that you sent the names or you redacted the names?

Alan Rusbridger: At the risk of repeating myself, there were names in these documents. The Government has been aware of that. Those documents were shared with *The New York Times*.

Q301 Nicola Blackwood: Did you redact any of those names before sending them?

Alan Rusbridger: Not before they were sent.

Nicola Blackwood: You just sent the names as they were out of the country?

Alan Rusbridger: *The New York Times* has not used any names either.

Q302 Nicola Blackwood: Did you have an agreement before you sent the documents that they would not be used?

Alan Rusbridger: We did.

Nicola Blackwood: You did. What about with *The Washington Post*?

Alan Rusbridger: *The Washington Post* was leaked material directly by Edward Snowden.

Nicola Blackwood: Okay. But you are working with them, I understand.

Alan Rusbridger: We are not working with *The Washington Post*.

Nicola Blackwood: You are not working with them at all, no.

Alan Rusbridger: The only other body we are working with in America is ProPublica. The chief of ProPublica is a man called Paul Steiger who has 16 Pulitzer Prizes to his name and is extremely experienced in handling this kind of material.

Q303 Nicola Blackwood: Did you send documents to him?

Alan Rusbridger: That was the material I referred to earlier; one story, a small number of documents. Again, it is open knowledge. I gave the Cabinet Secretary his name, too, in mid-July.

Q304 Mark Reckless: Can I ask why you didn't redact those names before showing them to *The New York Times*?

Alan Rusbridger: There were 58,000 documents, Mr Reckless.

Q305 Mark Reckless: The public interest defence is not actually the journalism but that you did not have the time or did not want to spend the resources going through them before showing them to *The New York Times*?

Alan Rusbridger: There were conversations with the Cabinet Secretary that led me to think that it was wise to share this material.

Q306 Chair: How many people were at the secret ceremony, attended by yourself and others, that took place in your basement?

Alan Rusbridger: There were two from the GCHQ side and I think two or three from *The Guardian*.

Q307 Chair: You just broke up the hard discs and the laptops. Is that right? Is that what everyone was doing?

Alan Rusbridger: Yes. It is harder to smash up a computer than you might think. I believe they have things like food mixers into which you can drop the computer, which reduces them to dust.

Q308 Chair: So the food mixer was brought to the basement of *The Guardian* and you popped things in?

Alan Rusbridger: No, we did it with Black & Deckers.

Q309 Chair: Was there any point in that exercise if you had the documents anyway and you were going to publish them, the food mixer thing?

Alan Rusbridger: The serious point is, and it goes back to *Spycatcher*, that I was completely clear with the Cabinet Secretary that there were copies elsewhere and that the destruction of these computers was not going to stop reporting. I think—

Chair: But they still went ahead and brought the food mixer and you still had the ceremony?

Alan Rusbridger: We did it with our Black & Deckers, but to their instructions. I accept this was a hard choice for the Government. I think they were balancing a free press with security. I understand the nature of the choice, but the point was that I think the alternative to having the newspapers—and you can criminalise newspapers all you like and try to take them out of this—the next leak or the next Edward Snowden or the next Chelsea Manning will not go to newspapers. They will dump the stuff on the internet.

Q310 Chair: Yes, we understand that is a wider point, but on the ceremony it was just a public relations exercise in the end?

Alan Rusbridger: I would not say that, but I would say if their aim was to stop publication and to have a dialogue of the sort that we were having—and Mr Robbins' witness statement makes apparent the reason they did not go for an injunction was because they felt that we were behaving responsibly—they lost control of the documents the moment they destroyed them in London.

Q311 Yasmin Qureshi: From what you have said this afternoon, is it the case that you say that what the newspaper published would not have caused any harm to any intelligence personnel nor put to risk any intelligence operation dealing with security issues?

Alan Rusbridger: I don't know because no one has come to me and said, "This is the specific harm that you have done". I have seen lots of people who have dealt with the security agencies. I have seen the

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former Lord Chancellor. I have seen former Home Office Ministers and former Foreign Office Ministers, Paddy Ashdown, who was a former Royal Marine. I have seen people who are serious figures who have dealt with the agencies who say that one should always treat the claims of national security with proper scepticism. I think that is a proper thing. The only story that any Member of Parliament has directly referred to is the story about the Tor, the so-called deep internet, which I am very happy to talk about if anybody is interested.

Q312 Yasmin Qureshi: Ben Emmerson, Queen's Counsel, who is the UN Special Rapporteur in counter-terrorism, has just announced they are going to be looking into this whole issue about intelligence-gathering or information-gathering by the US and the UK. I am just going to summarise what he said. He said it is the role of the free press to hold a Government to account and some of the suggestions from the Tory MPs that *The Guardian* should face criminal investigation are outrageous and even some of the tabloid newspapers are joining that. Are you welcoming the UN investigation into the whole issue of gathering information and the extent of it?

Alan Rusbridger: Absolutely. I think we have just had a long and tortured debate about Leveson and during that debate we heard repeated assurances from all three party leaders that politicians would not interfere in the press. It seems to me at the very first hurdle Parliament is in danger of falling in that. As I quoted earlier, the general counsel of the NSA—so this is not necessarily a friend of journalists, he is a full-time securocrat—said, “Of course, we did not want this stuff in the public and I perfectly understand why intelligence agencies want to keep all this stuff secret”. But once it is in the public domain and once it is in the hands of the press, the NSA guy says, “The press must be protected”, and that is a wonderful thing about America and I think it is a lesson that we are still learning in this country.

Q313 Yasmin Qureshi: My final question relates to the fact that there have been articles published in your newspaper and, I think, others have expressed at times—and I know the Chair has alluded to this—about the fact there is a question about the extent of parliamentary oversight of the working of the security agencies. I know in the end Parliament will make its own decision, but do you have some suggestions as to a possible way that Parliament can in fact improve or have more oversight of what the security agencies are doing?

Alan Rusbridger: I think somebody has to hold the ring between these conflicting debates. We are not talking about one public interest here. Security is obviously a very great public interest. No one is contradicting that. There is a public interest in privacy and there is public interest in the economic health of tech companies, the economic basis of the digital economy in this country. I have seen a figure of £36 billion as the likely damage to US and UK companies because people are not going to trust these companies on the basis of some of the stories that have come into the domain.

I think you need a privacy advocate. You need somebody external who has the technical knowledge, which I doubt many of the members of that committee have. They have a small budget of £1.3 million. I think there are all kinds of questions that parliamentarians have started asking: whether it is right for this not to be a full select committee of the House, whether it is right that the Chair should be a person who has had dealings with intelligence committees and responsibility for them, whether they have enough resource and so on. I am hearing very helpful suggestions and very interesting suggestions about how the ISC might be reformed as a result of newspaper coverage.

Q314 Ian Austin: What is point of principle? It is obvious, is it not, that all Governments are going to gather intelligence and all Governments are going to keep that information secret? Why should I accept from you that you are better placed to judge what bits of that information should become public? Why are you better placed to be able to be able to judge that than the heads of the security services who say Al Qaeda is having a field day and this has helped Britain's enemies?

Alan Rusbridger: I am not claiming to be better placed than the heads of the security agencies. I am just saying there is a broader debate than just security and the democracy that I want to live in—

Ian Austin: I accept that.

Alan Rusbridger: I don't want the national security to be used as a trump card that says, “I am sorry, you can't publish anything else because national security is going to trump that”.

Q315 Ian Austin: I am not suggesting that. What I want to know is when the people who are experts in this, dealing with it all the time, serving the country and trying to protect us all, say that this is stuff that should not be in the public domain, how can you argue that you and the colleagues at *The Guardian* that you consulted are better able to make a judgment on that? Obviously you do because you went ahead and published it.

Alan Rusbridger: Let us talk about the Tor story. Tor, for members of the Committee who are not familiar with this, is a system of communicating in encrypted form. It was built by the US Navy. It is funded to this day by the State Department. Why is it funded by the State Department? It is funded so that dissidents in horrible countries can communicate safely. That is a good thing, isn't it? It is also used by paedophiles. That is a bad thing.

If we publish a story after talking to the White House for three weeks to say that this is a network that still seems to be safe to use, is that a good thing or a bad thing? It is bad for dissidents and it is good for paedophiles. We use our judgment and, to come back to the earlier question, there was nothing *The Guardian* published that is not on Tor's own website.

Q316 Ian Austin: Yes, but I think there are two separate things here. It is one thing to report on the extent of surveillance and to say this information is being gathered and to report the facts that this is

happening. That is one thing. I think it is something very different to then transmit the information in a risky way, in an insecure way, which could put at risk security personnel. Those are two very different things, aren't they? I am not worried if the Americans are embarrassed. Reporting the extent of surveillance is fine, but I think the transmission of information and the way you managed it is something very different.

Alan Rusbridger: I took your question to be the judgment of editors versus the judgment of security services, but you are making a different point now.

Ian Austin: It is a separate question, yes.

Alan Rusbridger: We can talk endlessly about how the material was held. The only time the material has leaked has been from the NSA, not from *The Guardian*.

Ian Austin: No, I understand that.

Alan Rusbridger: You understand that point.

Q317 Ian Austin: Why were some of the names redacted? I am not clear why some of the names and some of the information that was sent was redacted and some of it was not. Is it because you did not know what was in all of the 58,000 files before they were sent?

Alan Rusbridger: The redaction was of any documents that we published that might have had a name on it. We have not used any names. In redaction I am talking about published material.

Q318 Ian Austin: Stuff that was just transmitted as it was?

Alan Rusbridger: We did some cleaning up, but we did not clean up every one of the 58,000 documents.

Q319 Ian Austin: What proportion of the 58,000 documents were read before they were sent to other people?

Alan Rusbridger: I could not tell you. I don't know.

Q320 Ian Austin: You don't know what was transmitted do you? The guy Miranda when he was transporting this stuff had the files encrypted but he had a bit of paper in his pocket with the passwords to unencrypt them. That does not strike me, as Ollie Robbins said, as being the best way of looking after secure information.

Alan Rusbridger: That is not—

Ian Austin: I think that is a matter of legitimate concern.

Alan Rusbridger: What you say is factually not quite right.

Ian Austin: That is what Ollie Robbins told the *Telegraph*.

Alan Rusbridger: If you read his witness statement—

Ian Austin: I have it here.

Alan Rusbridger:—it is not quite right. What he talks about is the password to one file, which was a kind of index to other files. If you read Mr Robbins' witness statement, which was made 11 days after the material was seized, it is apparent that the encryption on the files themselves have not been broken by GCHQ's finest. There is a supplementary witness statement given some time later in which the case they make for

retaining the files is that the police could not break the kind of encryption that was being used.

Q321 Ian Austin: Was any of the information taken home from the *Guardian* by any of your staff?

Alan Rusbridger: No.

Q322 Ian Austin: In the documentary about WikiLeaks, James Ball says that he took a copy of the encrypted documents back home to his flat, but in this case you are absolutely certain that that did not happen?

Alan Rusbridger: Yes. We were not blind to the sensitivity of this material and we went to more precautions over this material than any other story we have ever handled and this was not being carried around in that way.

Q323 Ian Austin: Just one point of clarification. In the early questions you were asked about the DA-Notices and you said that there was one story that did not follow that process. Was that the Tor story or was that something else?

Alan Rusbridger: The one in relation to DA-Notices? No, that was a story that I think falls into the category of political embarrassment rather than national security. It was about the bugging of leaders at the G-20 meeting in London.

Q324 Chair: In your Orwell lecture in November 2011 you set out a number of criteria, five Rusbridger tests, that journalists must follow if they are going to be involved in intrusive behaviour. Indeed, *The Guardian* has been commended by this Committee and others for the work you did on phone hacking. Do you think that what you have done meets those five tests in regard to sufficient cause, the integrity of motive, the methods used, that there is proper authority and that there is a reasonable prospect of success? Have they met those tests?

Alan Rusbridger: Yes, we were discussing that this week. I think they are very good tests.

Chair: They are yours.

Alan Rusbridger: It is harm versus good. It is authority. It is proportionality: 1%, not all of it. It is not fishing expeditions. One of the things I said to the reporters right at the beginning of this is, "We are not going to use this as a bran tub for stories. There is stuff in there about Iraq and Afghanistan. We are not even going to look at it". That is not what Edward Snowden was doing when he wanted responsible journalists to go through this material. I believe we have abided by those five tests.

Q325 Chair: Are you in touch personally with Mr Snowden?

Alan Rusbridger: I am not.

Chair: You are not, but somebody else is on your behalf?

Alan Rusbridger: Not since Mr Greenwald left *The Guardian*. We have no contact with him.

Chair: Can I say to colleagues who have indicated they wish to ask a further question that I am going to ask you to ask only one question? We have the Commissioner coming in. I would like Mr Rusbridger

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to go before he arrives not for any reason other—I don't suspect anything is going to happen—than that we have another session on counter-terrorism.

Q326 Dr Huppert: There are many interesting things but I would be grateful for any advice you can give us on how we can resolve this fundamental problem that the security services will tend to say, “Trust us, this is a problem but we can't prove it to you”, and there is simply no way to explore that properly. We also have the issue that terrorism, like paedophiles, as referred to by my colleague earlier, is clearly something that is so heinous that you should do anything to stop it, and this is often used to argue for further legislation. What is the solution to this conundrum? How can we avoid ourselves being in this constant position where the security services will just claim things and there is no way to establish it? The agencies have the oversight. How can we break that gap? What would your recommendations be?

Alan Rusbridger: As briefly as possible and this is clearly the dilemma at the heart of it. In the real world this is going to come back to Parliament and Congress, all countries with security services, are going to have to work out this question of oversight, but those committees, it seems to me, must contain the technological challenge and the representatives of civil society who can represent the public interest in things that are not purely security.

Q327 Michael Ellis: Mr Rusbridger, your journalist James Ball said in the documentary called *We Steal Secrets* that he took top secret encrypted documents back to his flat, as Mr Austin has pointed out to you. In an online interview, I think on BuzzFeed with David Miranda, he said one of your staffers at *The Guardian* was due to carry some stolen secret files, got cold feet and then they were sent via FedEx. Did you know that FedEx conditions of carriage included at section 8(16) that that would be an unauthorised thing to do? I think you said to Mr Reckless that you had used FedEx. My question to you is that, bearing all that in mind, do you not accept that you have been at the very least woefully irresponsible with secret information and thereby people's lives?

Alan Rusbridger: The James Ball quote, as you know, is about Wikileaks not about this story at all. It has nothing to do with this story and, no, I don't accept your premise.

Q328 Mr Winnick: Can you clarify the situation of where you go from here or where *The Guardian* goes from here? The Prime Minister, and I don't quote directly, said in the House that threats have been made, some may describe it as intimidation, use whatever word one would like. Will *The Guardian* continue to publish, despite all that, revelations from Snowden that you consider should be in the public domain?

Alan Rusbridger: We have been working slowly and responsibly through this material with some of the

best journalists in the world, with 100 contacts with Government and agency sources, so we will continue to consult them. We are not going to be put off by intimidation but nor are we going to behave recklessly.

Mr Winnick: I am glad to hear that.

Q329 Paul Flynn: What question do you think this Committee should ask the head of MI5 when he is here, bearing in mind he likes advance notice of questions?

Alan Rusbridger: I think the question that Mr Huppert raised at the end is the crucial one. I have met most of the heads of agencies and I know they are serious people who think about these things but equally it is apparent that some elements of the intelligence services—I am speaking generally and not necessarily about ours—have been a bit out of control, literally, because they were not within the control of people who should have known about it. That is a dangerous state of affairs and, if it is true of America, it is to some extent true here because of the relationship between NSA and GCHQ. So I think the question for the head of MI5 is the one that Mr Huppert raised, which is what is the forum in which this can be meaningfully overseen by people who have an understanding of the technology, are adequately resourced and understand the broader questions and the broader public interests of civil society that are engaged by these questions.

Q330 Chair: Are you quite satisfied that those who protect our country by gathering information and dealing with terrorist organisations like Al-Qaeda, Al-Shabaab and other organisations have not been undermined by what you have done, and those of us who sleep safely in our beds at night should not feel that they have been undermined at all by what *The Guardian* has done?

Alan Rusbridger: The biggest threat is if you are working in a situation where there are people inside these organisations who are so troubled by what they see and who are troubled by the relationship between the legality of what is going on and what engineers can now do—as President Obama said, what they can do as opposed to what they should do. As long as you have people among those hundreds of thousands of people who are so troubled that they are going to leak these massive databases in order to generate the public debate that the President says is necessary, then you have no security. President Clinton talked the other day about that we are in danger of having a world where there is no privacy and no security. That is a bad situation for everyone, so I think there are mature conversations to be had as a result of what has been published.

Chair: Mr Rusbridger, thank you very much for coming here. You have been clear and open in your evidence. Thank you.

Examination of Witnesses

Witnesses: **Sir Bernard Hogan-Howe**, Commissioner, Metropolitan Police, and **Cressida Dick**, Assistant Commissioner, Metropolitan Police, gave evidence.

Q331 Chair: Commissioner, Assistant Commissioner Dick, thank you very much for coming. We thought that you were not going to be able to join us, Ms Dick, but you are here.

Cressida Dick: I am delighted to be here.

Q332 Chair: We are also delighted.

Commissioner, could I start with a couple of issues before we turn to the issues of counter-terrorism? Of course, no session with any police officers is complete without asking the Andrew Mitchell question, since it has been so much in the fore. The last time you appeared before us, which was in January this year, matters had not been concluded and the reports had not been ended. We now have a situation where one of your officers has been charged with a criminal offence and eight are now subject to disciplinary proceedings. Is that factually correct?

Sir Bernard Hogan-Howe: That is right, although one of the officers is also charged with a criminal offence. There is a total of eight, one of whom is charged with a criminal offence and an issue of misconduct.

Q333 Chair: Bearing that in mind and bearing in mind the statement that you made to Victoria Derbyshire, which was broadcast and then picked up by many others, do you regret saying that you were 100% behind your officers since we now are clear that eight are subject to disciplinary proceedings? I know hindsight is a wonderful gift that they don't give you when you become Commissioner, nor Members of Parliament, but on balance, on reflection, it was the wrong thing to say. Would you like to take this opportunity of apologising or regretting what you have done?

Sir Bernard Hogan-Howe: I think we had the same conversation the last time I appeared before the Committee. What I tried to say then is that if anything I have said at any time has led anybody to believe that we are not going to have a ruthless inquiry then I apologise for that. What I tried to explain was that at the time I made the statement circumstances were different to how we find them now. I think I made that statement on 21 November last year. At the time Andrew Mitchell had resigned from his post on 19 October and he had previously apologised to the officer for his behaviour. The Operation Alice leak investigation into the leak of the police log published in *The Daily Telegraph* was completed in October, prior to me making that statement, and that was said prior to the Met being made aware of the letter sent to John Randall MP, which we were informed of about 13 December. While later, as you say, it appears unwise, and I would not want to let anybody think that we are doing anything other than being independent in our investigation, at the time those were the circumstances when I made the comment.

Q334 Chair: Bearing in mind that now we have had three chief constables of forces, other officers and the President of ACPO looking back, and I think everyone wants to turn the page on this at some stage, quite

quickly in some circumstances, do you want to draw a line by basically apologising for what the Met did?

Sir Bernard Hogan-Howe: I don't think I can at this moment, only because until we have all heard the outcome of the criminal investigation and prosecution, and also the gross misconduct and the misconduct charges, I think it would be unwise to say anything. I would draw the attention of the Committee to a couple of things I have said. One is that at the conclusion of these proceedings, if there is a need to apologise to Andrew Mitchell for anything that any Metropolitan Police officer has done, I will do it. I will do it personally if that is necessary. I am only hesitating to make those comments until we have given a fair chance to the criminal justice system and the misconduct process. I have no inherent defensiveness about making those comments at the appropriate time, and I think there will be a need to clear the air should there be any findings against the Met.

Q335 Chair: We have been troubled by evidence we have received in successive evidence sessions about the crime figures and evidence given to our sister committee, the Public Administration Committee, that basically the crime figures in the Met have been fiddled. One of your officers talked about a misrecording of between 22% and 25% for rape and serious sexual offences and a deliberate attempt to downgrade the figures, with the witness, Mr James Patrick, saying that you can physically see this in the notes. We put this to Peter Fahy and Hugh Orde but of course this was not the Met so they left it to you, which was very kind of them, since you are the Commissioner.

Sir Bernard Hogan-Howe: Quite properly.

Chair: Were you alarmed to hear that members of your force had been, in effect, fiddling some of those crime figures?

Sir Bernard Hogan-Howe: I was very shocked by the allegation and therefore we will take it seriously. I had not heard those allegations before, but what we have said we will do as a result of that is to make a very clear statement—which I did at the ACPO conference and I will repeat it—that it is essential that we have accurate and truthful crime stats. We know that they are never fully the story. We know that probably 85% of rapes and serious sexual offences are not reported, so they are an incomplete story, but what is vital is that what we have is accurate and truthful. It does not help the victim or the police if they are inaccurate. That is a very clear statement. In terms of what we are going to do about that—

Q336 Chair: Just before you do that, are you really telling me—you have been a chief constable, you have been the Met Commissioner for two years and two months—that no one has ever said to you in all that time, 36 years in policing, that police officers are misrecording figures? Is this the first time you have ever heard this?

Sir Bernard Hogan-Howe: That isn't what I said.

Chair: No, but I was asking you.

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Sir Bernard Hogan-Howe: Do you mind if I just finish on the particular point about what we are doing about that serious allegation, because it is really important? First of all, we are investigating. Secondly, I have asked Her Majesty's Inspector to come and inspect our existing systems. The HMI inspected our systems in 2012 and found them to be competent and reliable. We carry out our own audits internally, about six every year, and all of them have been passed with around 95% efficiency. You might say that is the Met inspecting the Met. The Deputy Mayor, Stephen Greenhalgh, has asked his own auditors to come in and look at our figures.

Finally, and this is particularly pertinent to the sexual offences and rape allegations, there is an issue in rape about what is called "no crime". I won't bore the Committee with all the details of that but there is one particular thing that is important. A "no crime" is raised where in fact it is said eventually that no crime happened, not that there was a mistake about the type of crime but there was no crime, that there was consent present in a rape or whatever. That has historically been an issue and we think that some of the comments that this officer made to the Public Affairs Committee relate to a period of over two years ago when the no crime issue was around 25%. As I sit before you, that no crime issue is around 9.75%, so it is far lower. There are always reasons in sexual offences for being very careful on behalf of the suspect and the victim. So we will take that seriously. What we are going to do is carry out a piece of separate research by some academics to go back and talk to women over at least the last two years where there has been no crime to establish whether that was true and, if it was not true, "Did any police officer play a part in putting pressure on you or anyone to withdraw that crime?" I think it is vital that someone else does this rather than the police.

Q337 Chair: Can I say on behalf of the Committee how much we welcome your decision to have this investigated and the fact that you are treating it very seriously, because we do believe it is very serious. The whole basis of policing, and indeed the debates that we have in the House of Commons and the policies that we fashion, is having accurate figures. We welcome that you have said to us today that you are having an inquiry.

Turning to counter-terrorism now, we have just had evidence from the editor of *The Guardian*. He does not know if there is an investigation into *The Guardian* in respect of the publication of the documents. I don't expect you to have listened to his evidence because obviously you were travelling over here. I don't know whether you were cycling or not, Commissioner. We will come on to cycling later with Dr Huppert. Is there an investigation into *The Guardian*? Mr Rusbridger has not had a knock on the door yet.

Cressida Dick: Perhaps I can answer that question. As you know, we conducted a port stop in August that resulted in us receiving a large amount of material. We announced later that we were investigating whether anyone had committed any offences in relation to that material and we subsequently clarified that to include

Official Secrets Act offences and potential offences in relation to counter-terrorism. We are continuing with that inquiry. We are taking it carefully. There is a lot of very difficult material to find our way into. We will go where the evidence takes us and we will be proportionate and careful about every step that we take. If people make complaints to us of other offences by others or parties involved or apparently involved or not involved, we will take those complaints very seriously.

Q338 Chair: Is there currently an ongoing investigation?

Cressida Dick: There is an investigation ongoing into that material, sir.

Chair: Into the material but not into any individual?

Cressida Dick: We are scoping what the material tells us about who may have committed what offences and we are working very closely with the Crown Prosecution Service and others to understand that.

Q339 Chair: I am just wanting to establish it so it is fact. Is it a scoping exercise?

Cressida Dick: No, it is an investigation but it is into what the material tells us.

Q340 Chair: I am trying to be clear here. It is an investigation that is scoping the material.

Cressida Dick: In effect, yes, sir.

Chair: Right. I think I am clear. Mr Reckless, are you clear?

Q341 Mark Reckless: In a previous context it was explained to us the difference, I thought, between a scoping exercise and an investigation. The police make a distinction between those two. Which of those is this?

Cressida Dick: It appears possible, once we look at the material, that some people may have committed offences. We need to establish whether they have or they haven't. We have an investigation to discover that, but that involves a huge amount of scoping of the material.

Q342 Mark Reckless: Can I clarify, is it the job of the police to investigate in this instance whether there has been a breach of section 58A of the Terrorism Act and, if so, the responsibility of the CPS to decide whether a prosecution would be in the public interest?

Cressida Dick: Broadly, yes. We take a very careful approach, as I have said, to any investigations into counter-terrorism or into the Official Secrets Act. The law is quite complicated, so the investigation is ours and we will continue with that investigation but we will and are taking advice from the Crown Prosecution Service about the law as we go forward.

Q343 Chair: Thank you. How many people are involved in this scoping exercise? How many officers have you allocated?

Cressida Dick: I am afraid, sir, I am going to have to come back to you with the precise number now.

Q344 Chair: Alice is now closed, is it? There were a number of officers, it had cost £250,000 at the end to the Met, but Alice is now wound up.

Sir Bernard Hogan-Howe: We can let you know but I am pretty sure we are now down to three or four officers who are preparing for two things, the criminal prosecution and the misconduct hearings.

Q345 Chair: Before I call Mr Winnick on Snowden, I would be grateful if you could pass on the Committee's condolences to the Chief Constable at Police Scotland, Sir Stephen House, on the tragic death of the officers in the helicopter crash. We all feel very upset about it, and if you could pass that on since you are the first uniformed officers to come before that.

Sir Bernard Hogan-Howe: Of course, Chair, we will pass that on, and also to the members of the public who were affected at the same time.

Chair: Of course, and to them.

Q346 Mr Winnick: The last remark of the Chair is shared by all of us and we have a book that we are signing in the Library for the tragedy that occurred in Glasgow.

As far as Snowden is concerned, can I get the position clear, Commissioner and Assistant Commissioner? You are working on complaints that have been made to you in the normal way. Am I correct?

Cressida Dick: I didn't say that, sir. I said we are investigating what the material tells us and whether anybody appears to have committed any offences from what we can see in that material. We will deal with any other complaints that we might get in the normal way.

Q347 Mr Winnick: What you are looking at at the moment is not entirely as a result of complaints that have been sent to the Met?

Cressida Dick: No, it is not.

Sir Bernard Hogan-Howe: It might be worth just reminding you about the chronology of what happened. Mr Miranda was passing through Heathrow airport, was stopped on a schedule 7 stop, was detained under that stop and material was seized. That material has now been the subject of a judicial review to see whether or not the police appropriately stopped him and whether we appropriately seized that material. The judicial review has now reserved its opinion and we await the outcome of that. It is under the information that was seized at that stop that we have tried to answer the questions as best we can at this stage.

Q348 Mr Winnick: Has the Attorney's office been in touch with the Met over this matter?

Cressida Dick: Not as far as I am aware, sir, and I would not expect them to be at this stage.

Q349 Mr Winnick: Finally, as far as the public interest is concerned, the decision on whether or not it is considered there should be a prosecution is out of your hands. Am I correct? It is entirely up to the Director of Public Prosecutions to decide what is in the public interest, or am I wrong?

Cressida Dick: If we believe there is sufficient evidence then, as you are aware I think, the CPS will look at whether the evidence is sufficient and, secondly, whether it is in the public interest. There may be, depending on the offence, also an involvement of the Attorney General.

Q350 Michael Ellis: My simple question on Snowden matters is will your investigation also incorporate potential or possible offences under section 58A of the Terrorism Act 2000?

Cressida Dick: Yes, indeed, we are looking at that as a potential.

Q351 Michael Ellis: Commissioner, can I ask you about Operation Alice, the matter concerning Andrew Mitchell? As the Chairman was saying, each of the three chief constables involved with the officers who were involved in the Sutton Coldfield matter have apologised and have been to see Mr Mitchell, apparently. They had one officer involved. You have said that there are eight Metropolitan Police officers involved in alleged disciplinary matters, and you did say that you were 100% behind your officers earlier on. I want to press you on why you differ from the three other chief constables as to the appropriateness of going to see Andrew Mitchell and apologising to him in the way that the other chiefs have done.

Sir Bernard Hogan-Howe: The only distinction I would draw is that my understanding is that in the other chief constables' appearances before you in fact no misconduct or criminal charges were to follow from the actions of their officers.

Chair: At that time.

Sir Bernard Hogan-Howe: That was the very challenge that you and others drew to their attention, which is not the position I find myself in. As I have tried to make clear, I have no defensiveness in principle. I am quite happy to do it personally and publicly when the right time comes, should that be proved necessary. My only reservation is that until some things are dealt with it would be unwise to make that apology for something about which others may then say I made a pre-emptive decision.

Q352 Paul Flynn: You said that in this inquiry you are co-operating with the Crown Prosecution Service and others. Who are the others?

Cressida Dick: Clearly in relation to the material that appears to relate to Government material we have to speak to Government departments and agencies about that material.

Q353 Paul Flynn: Are you involving the security services? Would you be under pressure from them for a prosecution?

Cressida Dick: I don't think we would be under any pressure from them at all, sir. Whenever we are investigating terrorism offences, and sometimes when we are investigating Official Secrets Act offences, we will be in touch with the agencies. We would not be under any pressure. We would also normally be in some contact with the Cabinet Office in relation to the material.

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Q354 Chair: Let us move to the rest of counter-terrorism. Cressida Dick, are you embarrassed by the fact that the Met has now lost two people who were subject to a TPIM?

Cressida Dick: I am not embarrassed, sir. I am, of course, as I think everybody is, quite frustrated. However, I am pleased that our response when this person went was very good.

Q355 Chair: Meaning what? He had escaped, so what response could be good?

Cressida Dick: It is clearly not a good situation but we didn't make it any worse, if you like, by failing in any way straight afterwards. I think we did very well in our immediate response to it.

Q356 Chair: What else could you have done? If one got into a taxi and went away and the other went into a mosque and put on a burkha, your response after the event is neither here nor there.

Cressida Dick: Less important. I accept that, sir.

Chair: The issue is that you are the head of counter-terrorism and these two people were the subject of TPIM orders. This is not something that the Home Secretary can monitor every day but presumably the police should be monitoring.

Cressida Dick: Certainly, and the agencies of the security service are in the position of working with the Home Office, but we are the primary people to try to manage the risk that these people may pose, primarily the risk that they may pose in engagement in terrorism and then, secondarily, of course, any risk that they might abscond. I have always been clear, and indeed at this Committee, that we cannot reduce all the risks to zero.

Q357 Chair: No, of course not, but there are so few of them on there. You have a very large budget and one of the reasons why Parliament votes you a large budget is to enable you to do your operational duties and the Home Secretary has to come before the House and take questions from Members when somebody goes missing. It is an operational issue. It is not necessarily an issue for Ministers. When the old regime goes in January, is it not going to be worse in terms of the surveillance of individuals? Do you prefer the old control order system? Do you have a view on that?

Cressida Dick: There are quite a few points in your comments, sir. First of all, I would refer you back, and I know you have had other witnesses who have said that beyond incarceration we can't actually stop every single person from making off should they so wish, despite our very great efforts and indeed lots of resources. Secondly, as I have said before, and I think you have agreed with me, we have to balance across the whole of our counter-terrorism effort, managing risk posed by a wide variety of individuals, including those on the TPIM measures. Thirdly, I think you were talking about when they come off the measures. We will need to manage any lingering risk that there may be around them and also in this phase work as well as we can with them to try to ensure that they don't pose any further risk. You have talked to me before about the relative controls that exist within

TPIMs and control orders. It really is not a matter for the police to say where the balance should lie.

Q358 Chair: We understand that, but we have all been in Parliament a long time and when Ministers go before the despatch box and say, "We want to increase the number of days that people stay in detention", as was the case before, they say, "We have spoken to the Commissioner—not this one of course, your predecessor—and he says it is a very good idea that we should have detention for 42 days". Do you not have a view as to what is the best way to implement these?

Cressida Dick: I don't wish to be discourteous, sir, but I think that was a good example of where sometimes it may be better for us not to get ourselves embroiled in great party politics. What I would say is that we will do our level best whatever the regime, for want of a better word. We will give professional advice to the Home Secretary and the Home Office. We have been consistent in saying that we did believe that relocation was an important measure, but of course it is not for us to decide where the balance should lie.

Q359 Chair: No, but Mohammed Ahmed Mohamed and Adebolajo—I don't want you to talk about the trial but just the fact that they have gone abroad, one to Kenya and one to Somalia—have both ended up back in the UK. Obviously Mohammed Ahmed Mohamed is still missing along with Ibrahim Magag. How closely do you work with the security services when people come back into this country? Obviously Adebolajo was brought back from Kenya and we heard from Charles Farr that he had an obligation to bring Mohammed Ahmed Mohamed back to the UK. Are they under surveillance from the time they arrive back?

Cressida Dick: I can't talk about Mr Adebolajo, for obvious reasons, but in terms of your general point we would expect—assuming we are all aware, assuming the security services, for example, are aware—to be informed when they come back if somebody has been involved or appears to have been involved or has been accused of being involved in a terrorist matter in another country, and we would work very closely with the security services, and do, from the moment they arrive at the port.

Q360 Chair: Did that happen with Mohammed Ahmed Mohamed?

Cressida Dick: I am not in a position to talk about the precise measures that we took but when we know about it we work very closely with the agencies.

Chair: Thank you. That is very helpful.

Q361 Mr Winnick: How far is the country in danger of another 7/7?

Cressida Dick: Sir, I think you will be aware that the threat level in the country is currently at substantial, which is one notch below where it was for much of the 2000s. There is, though, as you will have seen from the agency heads when they appeared at the Intelligence and Security Committee and Andrew Parker's speech in public, an ongoing and enduring threat. That threat is probably more diverse and more

complex for us to deal with. Of course, we could not rule out that someone somewhere might wish to conduct a horribly impactful and spectacular attack on that scale. We could not rule it out.

Q362 Mr Winnick: According to what the police and the intelligence agencies have stated, there are a number of people, in the hundreds, who are considered to be dangerous and potentially dangerous by way of outright terrorism in the UK. Is that the position?

Cressida Dick: Yes, there are many people, both people born and brought up here and in a variety of other countries, who might pose a threat to the UK.

Q363 Mr Winnick: We all accept, and I am sure the police no less than we do, that the overwhelming majority of people whose religion is Islam or were born into Islam even if they don't observe the religion, like in other groups, are perfectly law-abiding, loathe terrorism, know full well that they could be as much the subject of terrorism as the rest of us. Are you satisfied that enough is being done by MOS and other Muslim groups in saying in effect that terrorism, certainly terrorism in a country like ours, is in total conflict with the Islamic religion?

Cressida Dick: I, for one, was very heartened by comments that have been made over the recent months and years, and in particular after the attack in Woolwich, by a very broad range of people from our Muslim communities to show their complete contempt for terrorism and to distance themselves from it. As you said, the vast majority of people in Muslim communities, and that includes the vast majority of people who are in positions of authority in mosques, do exactly that. But I am sure there are one or two or a few who are either less capable or innocent about what might be happening within their community, and on occasion we have had examples of people who are present in mosques being extremists. This is not by any means exclusive to Muslim communities.

Q364 Mr Winnick: Are there large numbers of people in this country who go abroad for jihad?

Cressida Dick: I am not able to put a precise number on it, nor do I think it would be very helpful even if I could.

Mr Winnick: But generally.

Cressida Dick: I think when Mr Farr was here not so long ago talked about the very large numbers of people, more broadly, that we know are travelling to Syria. Some of them are people who are seeking what you called jihad and that number is extremely worrying for us.

Q365 Mr Winnick: Would they be possibly people who might want to inflict terrorism on the UK, or do you make a separation there?

Cressida Dick: I think there is a very complex picture, to be put it one way. Even people who previously have been interested in jihad might travel for humanitarian purposes. At the other end of the spectrum, there are people who go very innocently and get caught up and become very extreme and very trained, who might come back up and pose a threat. We are extremely

concerned about people who may return from Syria and pose a threat in the UK.

Q366 Yasmin Qureshi: Picking up on the theme about overseas, we are told and it has happened that some of the plots in this country have an overseas connection. What is the Metropolitan Police doing to build relationships or liaisons with other countries as well as other agencies in those countries to tackle the issue of terrorism?

Cressida Dick: I was able to put in a submission to the Committee and I covered some of this in some detail. Our whole approach in the UK is to try to work really well locally with our local communities so that, for example, a family who are worried about somebody travelling would feel confident to come and speak to us—and that is happening—to work very effectively with our specialists at the regional and national level in a way that is interoperable and flexible, and then—to come to your point—to have a very strong international reach. We have a number of what we call counter-terrorism liaison officers in a variety of countries whose job is to improve the police-to-police relationship, to build capacity to help the local agencies deal with terrorist matters. We also work with and through the security service and MI6 to try to ensure that we have the best possible understanding of what is going on in other countries and where people in those countries might pose a threat for us.

Q367 Yasmin Qureshi: You say that you have a number of liaison officers in other countries. Do you think you have enough resources? Are there enough in numbers or do you need more or less?

Cressida Dick: It is important to say that these officers are primarily funded by the counter-terrorist branch, which you know is a ring-fenced branch so they are not funded by, for example, the Metropolitan Police budget, and secondarily also by the Foreign Office. They have been investing in that capability and this year we are expanding slightly the numbers that we have and the countries that we have them in. That is very much led by the Government saying where they think it would make sense and us saying where we think it would make best sense. So there are skilled people, a scarce resource, in my view doing an incredibly important job, and I know others believe that they are very important in the wider counter-terrorist effort. In general, we are expanding not getting smaller.

Sir Bernard Hogan-Howe: Although sometimes the British police are criticised at home, internationally we are well received, even where this country is not always well received in some countries. I think you are going to meet with an officer when you visit Kenya, or whoever from the Committee is visiting there. During the recent events, that officer was well received when Britain is not always well received. It is a useful conduit.

Q368 Chair: This is a point Mr Reckless has made on a number of occasions, that the brand Britain is very high in terms of policing. I don't know whether you have seen, because you were obviously preparing

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for this evidence session, the article in today's *Evening Standard* about the number of London teenagers who are travelling out to Syria to fight. Who is it who should say, "Don't go"? Commissioner, this message does not seem to come across. People travel because they think that they are going to take part in jihad. Some of them die and some of them become even more radicalised, and then they come back into this country. Who should tell them not to go, Commissioner?

Sir Bernard Hogan-Howe: I suppose a number of people, Chair. I invite Cressida to add anything if she would like to. First of all, parents. We have had contact from worried parents who don't know where to turn to stop it or get advice. You would hope that mosque leaders, as was said earlier, are going to play a part in that too, and of course politicians and governments have a role to play in sending a message out. As far as the police are concerned, we advise people not to get involved in terrorist groups and not to travel to war zones for their own safety let alone anything else.

Q369 Chair: Is there some profiling being done? Is there some research on the geographical areas that they go from? Perhaps there should be school visits by officers just telling these people.

Sir Bernard Hogan-Howe: Perhaps Cressida could add a little detail about what we do.

Chair: Yes, "Please don't go because if you go you will end up either dead or there will be severe problems for you when you get home". I think if we send that message across we have to stop them going. After the parents ring and ask for advice, it is probably too late, isn't it?

Cressida Dick: We entirely agree with you, sir, and we are doing a great deal of work. Not just police officers but our Prevent officers have a whole series of campaigns and messaging that they are doing in areas that we feel might be particularly vulnerable to this area of travel. We are monitoring as best we can where people are going from and concentrating our efforts there, but it is a collaborative approach, as the Commissioner said, across us and the communities, and also other public authorities.

Q370 Chair: Do you find your budget is under strain, Commissioner, in respect of spending money on Prevent, on sending officers out in order to tell them to stop?

Sir Bernard Hogan-Howe: We are always under strain, Chair, about our money but to be fair I am not sure we would say this is preventing us doing things that we want to. Of course more money is always appreciated but I don't think it would be reasonable to say it was causing us particular problems in this area.

Cressida Dick: If I could add, sir, as you know, the Home Secretary has said the counter-terrorist police capabilities will be maintained for two years. Within that we are constantly looking at where we can be more efficient and where we should adjust investment, and we will be investing some more in Prevent work because of what is going on at the moment.

Q371 Michael Ellis: I understand from recent reported cases that the Home Secretary has recently in one particular case of suspected terrorism cancelled a passport. It had already been cancelled once before and the Supreme Court had "uncancelled" it. Are there any extra powers that you think are needed by the police, whether it be going to fight in foreign parts or any other areas where you are screaming out for more powers, or are the powers sufficient?

Cressida Dick: There is quite a wide range of things that the police, and the Home Secretary can call on, not just powers but our covert capabilities and our police abilities and also the agencies' abilities. There is a wide range of things, but it would be ridiculous to say that we should not look at whether there are further powers that would be helpful. Indeed, in recent weeks we have been in some conversations with the Home Office about what might be adjusted or what might be—

Michael Ellis: Can you elaborate?

Cressida Dick: I am not sure it would be appropriate to give you any great detail, sir, and I am not the person that has been speaking to them, but in terms of—

Michael Ellis: But there are talks?

Cressida Dick: There are most certainly talks: what could we do to strengthen our powers in order to prevent people travelling?

Q372 Michael Ellis: Given the concerns about foreign fighters, what sort of work is the Metropolitan Police doing to identify and monitor UK nationals who travel in order to engage in this type of activity?

Cressida Dick: Again, it is very much a partnership approach with, where it is appropriate, the security service, but we are doing everything we can to try to find out who may be minded to go and why, as the Chair has said, to intervene and dissuade or help other people to dissuade them where we can. But also where they are set on going and there is no power, the intelligence would suggest they are going to go and we don't have any evidential reason or any other reason to be able to physically stop them, then we most certainly are monitoring what they are doing to the best of our ability.

Q373 Michael Ellis: Did you want to add anything, Commissioner?

Sir Bernard Hogan-Howe: The only thing I might add is that we make a broad point about British policing, which is having local neighbourhood officers, which is not often recognised, is fundamental to our national security investment; partly who do we identify as terrorists and partly what information we get from the public, from a parent, school or wherever about people who are thinking about, for example, going to Syria. That information is fed into the system. Then you have to check at the borders: is there any suspicious activity there? Of course, both security services work with us to see what we can gather from our intelligence from abroad and at home to see who might be thinking about this sort of movement.

Q374 Michael Ellis: Is this an area where community police officers have been able to help identify those who are claiming to engage or have engaged in fighting abroad?

Cressida Dick: Absolutely. As the Commissioner said, it is the foundation of counter-terrorism policing. People tend to think of the detectives and the forensic people and all the specialists who are very capable, and probably in many respects the best in the world, but actually the foundation is the local neighbourhood officers, the friendly face, those that people can get to know, trust and understand. That is where we get our intelligence from.

Q375 Nicola Blackwood: I want to ask you about prosecution of counter-terrorism. There is a major terrorism trial that was reported in *The Times* a few weeks ago. I realise you can't talk about the details of the case at all, but it is a little bit concerning that essentially what is being reported is that almost all of the details of the trial will be held secretly, the names of the accused, the details of the complaints against them and so on. This may be necessary for operational purposes in this case but how often has this happened with other similar terrorism cases?

Cressida Dick: I am not aware of any other case in which we have done this. I will double check when I go back but I am not aware of a single other case. I would agree with what I think is probably the subtext of your question, which is that it is absolutely imperative wherever we can that people know what is going on in the justice system and particularly in terrorism where we have very great powers. It is a very controversial issue and people have all sorts of different views on the subject. We would want to be open wherever we possibly can and I can assure you, in terms of our first decisions around that case and any case, there is a very careful consideration as to whether that is the right thing to do. I would regard it as a very rare occurrence but, of course, as you are probably aware, in this instance the judge has put these restrictions on.

Q376 Nicola Blackwood: Those restrictions have gone on to this case but does your application for reporting restrictions, anonymity and non-disclosure of pretty much the whole case in this instance signal any kind of policy change?

Cressida Dick: Absolutely not.

Q377 Nicola Blackwood: Your intention would generally be to allow disclosure in every other case where it is possible?

Cressida Dick: Wherever we possibly can we would want to do that, yes.

Q378 Paul Flynn: How would you apportion the terrorist threat to the UK from three groups: Al-Qaeda, home-grown terrorists born and brought up here, and the Taliban?

Cressida Dick: Al-Qaeda, as know, is now very different in some respects from the Al-Qaeda of a few years ago. It has an awful lot of affiliated groups, people who aspire to be like, people who are interested in, so it is quite a wide set of groups now

that might be put under the Al-Qaeda brand, if I can give it that name. Undoubtedly, several of those groups do pose a threat to people in the UK. As a brand, it inspires other people, coming to the home-grown, and we know that through the internet and other methods it has caused many people to move from being somewhat radicalised, slightly extreme in their views, to becoming violent extremists who actually want to cause attacks and hurt people. That phenomenon is very worrying to us, in particular the phenomenon that perhaps people may not in the future feel the need so much to seek permission or commander control from elsewhere but will just, having seen something on the internet, decide that is what they are going to be, will be self-starting. So both pose a very great threat to us, home-grown and from abroad. Al-Qaeda is a very pervasive brand that is affecting all of this. It is not the only one but it is a very pervasive brand. I am afraid I am not really qualified to talk about the importance of the Taliban as a threat to the UK.

Q379 Paul Flynn: You haven't answered my question. I asked for some proportion of risk. But moving on from that, the continuing justification for sending British troops to die in Afghanistan is the threat from the Taliban of committing terrorist threats in the United Kingdom. Next year those troops are coming home. Do you expect to see an increase in terrorist offences by the Taliban?

Cressida Dick: Again, sir, I do not think I am qualified to assess that. I am sorry if I didn't answer your question before.

Q380 Paul Flynn: All right, if I repeat it again. What I would like you to answer is is it a third, a third, a third? Is there no threat from the Taliban as Al-Qaeda disappear? Is it a threat almost entirely from home-grown terrorists? The majority of the atrocities that have occurred have been by people from this country who have been brought up in this country. Isn't that true? Are we fighting an enemy in Afghanistan that presents a threat that doesn't really exist? If it does exist, we are getting rid of our protection next year and presumably the Taliban are going to come in in great numbers to blow up our streets.

Cressida Dick: I am sorry, sir, I am going to have to say I genuinely am not qualified to talk about the threat of the Taliban.

Chair: We can accept those remarks.

Cressida Dick: Nor do I think anybody, and certainly not me, could put figures on the degree of risk of Al-Qaeda in other parts of the world and its influence in the UK on individuals, together with some others who pose a significant threat to the UK.

Q381 Mark Reckless: Sir Bernard, we have seen how the reputation of British policing can be used to gain co-operation and support overseas. Do you see prospects for using that international reputation to generate more income that can be put back into British policing? Is the College of Policing the body we can look to to do that?

Sir Bernard Hogan-Howe: In short, I think there is an opportunity there and there are various ways we

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can do that. The Commonwealth remains a powerful link for us. We can think about the countries in which we have counter-terrorist links and serious and organised crime. The overall brand probably is British policing. The Metropolitan Police, New Scotland Yard, is a very powerful brand. We get visitors almost every week from different parts of the world who wanting to share but also learn, so I think we have something to offer. We have been approached by different people trying to help us to sell our brand and I think the only difficulty is working out what is an appropriate way of finding a vehicle to do that. We are already talking to the College of Policing about how we can work together, because of course they can offer training and they have their own brand but they don't have the operational brand and the size that the Met offers. So I think there is an opportunity. How it works I think is something for the Government to consider as well.

Finally, I would say whatever we do ought to support foreign policy. It ought not to be the Met or the College of Policing to say, "We will have this link with this country". We ought to be supporting and developing British foreign policy, and clearly with over 200 countries in the world we can't do it everywhere so we have to prioritise our efforts. But the military, security services and the police have something to offer in developing relationships.

Q382 Chair: You confirm that you did not come here on a cycle?

Sir Bernard Hogan-Howe: I do, Chair.

Chair: Good.

Sir Bernard Hogan-Howe: That is not remarkable of itself.

Q383 Dr Huppert: Terrorism is clearly something we are all very concerned about, as we are about the actions of paedophiles and a range of other things. These are often used as scapegoats, reasons why more and more powers are always needed. We have seen this many times. Presumably you are both aware of Project Spade in Canada.

Sir Bernard Hogan-Howe: I must admit I have not heard that one.

Dr Huppert: I find that extremely interesting. This is a very large operation by Canadian police where they broke a huge paedophile ring.

Sir Bernard Hogan-Howe: This is the recent one?

Dr Huppert: This was about 18 months ago. They managed to release hundreds of children from astonishingly abusive conditions. They also identified 2,345 suspects in the UK. They sent the information approximately 18 months ago to CEOP. You say it is very recent, because until last week absolutely nothing had happened about this whatsoever. You say you don't know anything about it even now. 2,500 suspects for very serious offences and you are saying you did not know about it.

Sir Bernard Hogan-Howe: The first thing I was trying to explain is that I had not heard the name. We have so many operations, I did not recognise the name. Now that you have helpfully explained the particular case, I had not heard about the 18-month history of this and I am afraid I am not briefed to

answer how CEOP dealt with that information, although I can go away and try to find out. It would not be the first time, sadly, that we have received large volumes of data where paedophilia has been an issue on the internet. Operation Ore, which I think is now probably over 10 years old, has had a long time in terms of trying to get to the bottom of these investigations. I can go away and find our best information. I am sorry I didn't recognise the name but I did see the press reports over the last two weeks, which was my "recent" comment.

Q384 Dr Huppert: The National Crime Agency have said that they are going to have an independent review as to how they managed not to look at this data. Would you agree that it is quite important that before asking for new powers to do all sorts of wonderful things, getting the basics right, like having a look at files containing names of suspects, might be a good thing to do?

Sir Bernard Hogan-Howe: I would. The only reason I am hesitant to make any judgment is that I don't know enough to know when CEOP received it, in what format and what they did with it. I want to make sure before I comment that the Metropolitan Police received nothing, and if we did what we did with it. I am afraid I am not briefed but I will go away, as a result of this question, and inform the Committee about what I find out.

Q385 Dr Huppert: That would be helpful. It would also be helpful if you could find out for us the form of the independent review that is going to be undertaken. Moving on to another issues with counter-terrorism, we have discussed before the idea that counter-terrorism should move into the National Crime Agency, because it is an national issue after all. Has your position changed on that, either of you?

Sir Bernard Hogan-Howe: My view is that you have to be clear about why we would change. Our model in this country is very well respected, both in police and security service terms. Most of the rest of the world looks to our model with some respect and some awe at times. Without being complacent, I think we have a pretty good model that is working well. I have to be really careful because we could have an attack tomorrow and everybody would say, "Why didn't you predict it?" but on the whole I think our system is working very well. The things that I think make it strong are the fact that, going back to the original point, we have about 250,000 people involved in policing in this country, 130,000, 140,000 cops and then all the people who support us. That is a big very footprint of people. We need to connect with over 60 million people so it is vital that we have that link. I think if we isolate the terrorist investigators—we already have an isolated security service and the NCA are a national policing body and having a link in with local policing is a very important thing. During our investigations around extremism for Islamism we have allegations that this becomes a political issue. I think the fact that police get involved at a local level is a strength. So for me that is a very powerful point. Secondly, the National Crime Agency is a very new body. It has been in place for a matter of weeks. The

reason it was set up is because it was perceived that its predecessor was not working in the way that Parliament or anyone else wanted it to work. So it now has to establish its credentials and I think it would be unfair on it to then give it an extremely new and quite radical change in terms of these new powers and responsibilities. For many reasons, it is for the Government to decide what they would prefer but I think they are the things that would weigh on my mind if I was called on to give advice.

Q386 Chair: If I could just interrupt for one second on that. You are not ruling it out? Some of us agree with what you have said about the NCA, the jigsaw is not complete, as we know, but five years down the line it may be sensible to put counter-terrorism in a national organisation because counter-terrorism is a national issue, isn't it?

Sir Bernard Hogan-Howe: Chairman, I don't think I quite said that.

Chair: No, but I am asking you.

Sir Bernard Hogan-Howe: So I am giving you my view now and I am not trying to project something.

Chair: You are not ruling it out though?

Sir Bernard Hogan-Howe: I am not quite saying that. I am not projecting myself for four to five years for a few reasons. Lord Stevens independent report for the Labour Party proposes a different structure of policing altogether. If you accept that model there would be nine forces. This not a Met-led project.

Q387 Chair: He does not make a comment about where CT should sit, does he? That is the problem.

Sir Bernard Hogan-Howe: No, but if I develop this just a little. We have five counter-terrorist units out there. It is not just the Met. Then we have the counter-terrorist intelligence units. We have an embedded complex picture where we have a discrete body of people who are investigating counter-terrorism. We have a link to the security service. I think if we were to consider changing the model, for reasons that ought to be established, then we would have to consider all that picture. There are very many options, one of which might be the NCA. In considering those options, the NCA is one of them. I don't rule it out, but I think the model we have is pretty good.

Q388 Dr Huppert: To move away from counter-terrorism—we can explore that further—you made some interesting comments. It is a shame my colleague Ian Austin is not here because he and I co-chair the all-party parliamentary cycling group. You made some interesting comments in your role where you have a responsibility for traffic policing and safety through London and there have been a number of tragic deaths. Your comments were, "It seems to me there is a lot of traffic and personally I wouldn't cycle, fair enough, but some people don't have the choice. Economically it is not easy." I don't know if you have had a chance to reflect on your comments and whether there is anything you would like to say about your attitude to it but also what the Metropolitan Police are going to be doing to make it possible for people to cycle safely.

Sir Bernard Hogan-Howe: I have had a lot of opportunity to reflect on my comments. You may have seen that I published not a retraction but certainly a clarification within hours, so I have reflected on my comments. I suppose the first thing I have to say, and I was answering personally, is that I don't cycle. I can't be dishonest about that. I just don't cycle. I don't find it attractive. I would ride a horse round London but I wouldn't ride a cycle, but neither would I in Sussex or anywhere else. It is not a comment on London necessarily but that is how it was taken. What I should have probably considered was that generally cycling is quite a safe event. If you look at London this year, I think one more person died on the roads, which is a very sad thing. I think 14 people have died this year compared to 13 last year and 11 the year before. I think there are fewer people seriously injured. This is despite the fact there has been more cycling. On the whole cycling is increasing and therefore you would think the risk increases. I suppose I was just reflecting on the fact that it can be very unfair for the cyclists regardless of whose mistake it is. So I think I made that point inelegantly, and straying into the economic area was not really any other point than some people may not have that choice. That is all.

Q389 Dr Huppert: Thank you for those comments. What will the Metropolitan Police be doing to assist in this?

Sir Bernard Hogan-Howe: Yes, of course. What we decided to do is for a period of around 90 days, three months, certainly over the next couple of months, at 166 locations we are asking our officers—I think we said over the 24-hour period around 2,500—to concentrate on junctions particularly where cyclists appear to be most vulnerable. So we have identified the 166 and already over the first three weeks I think we have issued 5,000 fixed penalty tickets to both drivers and cyclists for inappropriate behaviour to try to encourage them to bike better. Many have been stopped and advised. I was talking to a journalist before I came in who said he had been stopped and advised, so clearly it is having some impact. We are getting an indirect benefit. Many of the areas in which there are hotspots in terms of inappropriate behaviour or accidents and collisions also coincidentally are quite often crime hotspots, so by the high levels of patrolling we are getting a joint benefit. People seem to have appreciated it and the sort of things we are concentrating on are obviously motorists who use their mobile phones, drivers of large vehicles who don't seem to be giving consideration to cyclists, cyclists who go through red lights and don't look or go over the white line when they should remain behind. We are trying to deal with both fairly but acknowledge that often the cyclists will come off worse whatever the bad behaviour.

Q390 Dr Huppert: There have been a lot of comments in the past that the police haven't looked into collisions seriously. Will you make sure that that changes?

Sir Bernard Hogan-Howe: I think I might reject that, if you wouldn't mind. For any fatal collision we have

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a set of accident investigators who are pretty well qualified. In fact, if the Committee has never had a look, if you would like a visit to meet them I think you would find it fascinating. They are qualified as engineers. They work with many people to establish exactly what happened in a collision, not necessarily to blame but to understand so that the coroner is well informed and if there is a prosecution, which does not always happen, the court is well informed. It helps design the roads, affect driver behaviour and give advice to the Government and Parliament on what the law should be. I think we do pay particular attention and frankly whether someone has died on the roads or died by a criminal act, both are important things. We know that broadly probably two to two and a half times more people die on the roads than die by criminal acts or homicide.

Q391 Chair: Just a couple of points and then we are going to close. First of all, as far as Hillsborough is concerned, just to put this matter at rest, I know that the Hillsborough families have talked about a statement you may or may not have made. It was 20 years ago and some of us can't necessarily remember what happened 20 minutes ago. Did you make a statement? Was it in writing, was it a telephone call, has it gone to the right people? Do you want to clarify it just for the record?

Sir Bernard Hogan-Howe: You are quite right, the length of time has not helped my memory. I have tried to put this in the public domain. I would say two things. One is that at the time I was an inspector in the South Yorkshire Police. I was at university and on the Saturday when this horrible event happened, at the request of the force I went back on duty to try to help at the local Hillsborough Boys Club. That is what I did that evening and tried to help until the following morning. There has been a more recent request by the press about whether or not I made a statement. I have to say genuinely I thought I had made a statement, which is what then got confusing when I was shown a document that I took to be a statement and now looks as though it was a written account of an oral telephone conversation. So I think that accounts for the mis-description. But I have said I am very happy to help the family—I think it is actually one family—and also the Independent Police Complaints Commission and those who are working for them around Hillsborough to do anything I can to clarify anything that happened in that boys club because there is nothing to be hidden and I don't think I have anything to be ashamed of.

Q392 Chair: As far as you are concerned, it was an account of a phone call and that was it?

Sir Bernard Hogan-Howe: I think that accounts for the confusion but I have contributed to that confusion by not recognising the difference in the documents I was shown.

Q393 Mr Winnick: No criticism of the Chair of course. He said 20 years is a long time. 39 years ago the pub atrocities occurred in Birmingham and the relatives are still seeking to find out who committed such a terrible crime. As far as Hillsborough is

concerned, we have had evidence from those involved in the fight for justice to clear the names that were slurred by the press and the Government of the day, or at least some Ministers within the Government. Do you recognise the very strong feelings of those who are campaigning over this issue?

Sir Bernard Hogan-Howe: Of course. Some of them have lost children, certainly many people have lost a relative or a friend. That is a terrible thing and compounded by concerns about the truthfulness of the inquiry and the things that followed. I entirely understand it. I did work in Merseyside for nine years, as chief constable for five, and I met some of the families and their representatives, so I entirely understand the emotion. It is a very natural thing that everybody wants to make sure that they get justice.

Q394 Chair: I will be writing to you because I am sure you do not have the figures here about the amount of property that is seized or collected by the police and retained. There are specific examples of accidents that have occurred in London where the police have taken property and not returned it in a timely fashion. Would you look into that? I am giving you notice.

Sir Bernard Hogan-Howe: Can I just check, is this criminal assets where we have seized them or is it general?

Q395 Chair: It is general accidents on the roads where you have taken material and not handed it back. I am going to write to you about it but you are alerted to that.

Finally, the Committee has decided to hold an inquiry into female genital mutilation. Obviously this is an issue of interest to the Met. Is there an explanation as to why so few people, in fact nobody, have been prosecuted for FGM since the law came into existence?

Sir Bernard Hogan-Howe: There are some explanations where they are justified, but I think it is for others to judge. As I think we had a discussion about, I have a personal interest in making sure that we do get a prosecution. The Committee may have seen the documentary by Leyla Hussein. I recommend it to those who have not seen it. It is an incredibly powerful about what FGM is, not what is the theory but what actually happens, which is a pretty horrible thing. Also we need to educate not only men, I suspect, about what this means and what the expectations are of women. I offer it. I have met Leyla and we are going to work together to see what we can do about finding out whether we can get prosecutions, particularly around cutters, the people who commit this horrible thing either abroad or at home. We have made a start on that and we are meeting again in a couple of weeks time.

Going back to your original point about prosecution, over the last couple of years we have had five cases in the prosecution phase, certain investigations moving through to a potential charge. The usual challenge is that the victim will not complain. Sometimes it is a child or it is a child who would have to complain about the parent who arranged the cutting and that causes incredible tensions. I think we now have one case that we think may have some opportunities,

which does not fall into that category. But the usual challenge is that either the child is too young to complain or they, as an adult, have to complain against a parent, apart from the fact that many people from some communities do not understand that it is illegal in this country.

Chair: Of course. We are holding an inquiry and we would very much like you or one of your colleagues to give evidence.

Q396 Nicola Blackwood: Sir Bernard, the challenges that you have just mentioned are challenges that often you have to deal with in complex child abuse cases, child sexual exploitation cases and domestic abuse cases. We have obviously come a long way in prosecuting those cases. One of the ways that we have come a long way is by raising awareness and expertise among statutory agencies and teachers and parents in identifying indicators and knowing when to refer and who to refer to. I know that there was statutory guidance and guidance that was put out from the Home Office. How many referrals, from secondary witnesses I suppose, do you actually get to pick up cases or are you just waiting for victims themselves to come in?

Sir Bernard Hogan-Howe: I will be careful how I describe this, but we do not get many referrals from education or health, and that would be helpful. If there is childbirth involved you would think that these things are fairly obvious. There are two things that come into play. One is a lack of education for all the professionals involved about what it means and what are the physical symptoms. You would think for health professionals it is obvious but I understand it is not always as obvious with various forms of FGM. Secondly, there are sometimes cultural sensitivities that I would say are inappropriate. People trying to do the right thing sometimes do the wrong thing. So I think the whole system needs a shakeup. I will accept our responsibility but I think together we have to do something significantly different. The final thing I would mention is discussions about how we could use some of the tactics we ordinarily use against organised crime in this area to prevent a victim having to give evidence.

Q397 Nicola Blackwood: To help us with our inquiry, would you send us your statistics about your referrals and the victims who have come forward that have led to the ongoing prosecutions that you have at the moment? It would be helpful.

Sir Bernard Hogan-Howe: Yes. I can certainly provide it if it is any help to the Committee, taking names out, giving the details of the cases so that you understand some of the dilemmas that you might appreciate and help you understand why individuals have a real dilemma.

Q398 Chair: That would be very helpful. Very finally, Assistant Commissioner, you are the most

senior woman police officer in the country and, Sir Bernard, you are the most senior male police officer in the country, so the Committee is very fortunate to have you both together. How does the police service turn the page following Plebgate and Hillsborough and the Jimmy Savile issue and all these other problems in terms of leadership? How do we turn that page, Cressida Dick?

Cressida Dick: You have catalogued a number of issues and problems. I think that our day-to-day interactions with the public tell us that a huge proportion of the public judge us by our actions and not by what they read in the newspapers or other issues that they are finding out about second or third hand. The most important thing for me is that we continue to improve our day-to-day service delivery and our ability and, for example, prevent terrorist attacks or respond effectively. I think that we have very good and strong leadership of policing in this country. However, clearly some cases have suggested, as with other institutions, that we are not perfect. There is a job for all of us, including the most senior people, to focus on our leadership development, bringing up new, young, different people and ensuring that they are inculcated with the very best of British policing, which we touched on when we were talking about counter-terrorism liaison officers overseas. The ethos of British policing is admired all round the world. We have some great leaders and we need to develop some more great leaders.

Q399 Chair: You are one of those leaders, Commissioner. How have we turned the page over the last few years?

Sir Bernard Hogan-Howe: Just to build quickly on what Cressida said, I think we shouldn't throw out all our strengths. We have a great many strengths. We are one of the, if not the only, unarmed police services in the world, which means that we must have the support of the public. Without that we cannot go forward. We cannot be complacent about that. The Met has four values about being courageous, morally as well as physically, about compassion, about being professional, but it has to be built on a bedrock of integrity, and that is where the police service has to be. I think we should celebrate the fact that we are all shocked where integrity is challenged but we all have to respond with great vigour and make sure that integrity is maintained. There is no such thing as part-time integrity so we have to make sure that we maintain that and promote it in our selection and training of people and make sure that we respond with great alacrity if we find there are times when human behaviour lets us down. But we shouldn't throw out the great strengths that we have in the British police service.

Chair: Commissioner, Assistant Commissioner, thank you very much for coming today.

Tuesday 14 January 2014

Members present:

Keith Vaz (Chair)

Ian Austin
Nicola Blackwood
Mr James Clappison
Michael Ellis

Paul Flynn
Dr Julian Huppert
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: **Cerie Bullivant**, Journalist, gave evidence.

Q398 Chair: Mr Bullivant, welcome. Thank you very much for coming. Our apologies for making you wait. We had an additional witness.

The Committee is conducting a detailed inquiry into counter-terrorism. You may have seen some of the previous hearings. We are very keen to hear from you in respect of your history and past as someone who was the subject of a control order. You can take it as read that we understand the concerns that you had about having this particular order placed upon you. How can you describe life under a control order?

Cerie Bullivant: It is almost an oxymoron to use the term “Life under a control order”. You don’t have a life while you are under a control order. Everything is as it says on the tin. It is claustrophobic and it is controlled. Every day every sort of action you are taking is being monitored. With all of the conditions upon you that you are constantly worried about breaching and trying not to breach, it is like having a sword hanging over your neck. You know that for the slightest mishap you could face an arrest, a trial and potentially five years in prison. It is telling that when I was in prison for breaching the order there were three other people in prison at the same time as myself for breaching control orders and all three of us were held on the medical wing because of severe reactive depression. One of the people was suffering from post traumatic stress disorder. So every single person who was in prison related to this was suffering from severe mental health problems as a result of that.

Q399 Chair: Were you surprised that you were put under a control order, bearing in mind that you were about to travel to Bangladesh and Syria? Why do you think that the British Government felt that you were going to be a threat if you left the country?

Cerie Bullivant: I was very surprised when I was put on the control order. I had never been involved in criminality; I had never been arrested before; I had never even had any problems with the police. It is worth pointing out that at that time Syria was not the Syria that it is today.

Q400 Chair: Yes. Remind us of the timeframe.

Cerie Bullivant: It was 2006. Iraq was kicking off at that time and there was a lot of instability there, but I was going to Syria mainly looking to work with orphans and I wanted to study a bit of Arabic, just do some travelling, some backpacking. At that time Syria was a common place for people to go and see ancient architecture, the history from the Crusades.

Q401 Chair: Although you were not involved in criminality, it is alleged—and maybe you can tell the Committee the correct situation—that you knew somebody who was related to somebody else who was involved in terrorist-related activities. Is that right? Is that relationship right, you were not involved but you knew somebody who was related to somebody else?

Cerie Bullivant: I knew somebody whose brother was on remand awaiting a trial for a terrorism-related offence. At the time I didn’t know that his brother was. It is not the sort of thing that was put out there publicly. The person who was on remand had changed his name by deed poll and so had a different name to my friend, so I had no way of linking those two. But by two degrees of separation I was connected to somebody who on remand for a terrorism-related offence. He had not been convicted at that time either.

Q402 Chair: You received no explanation or apology from the British Government or anyone else as to why you have been put through a control order and through all the judicial proceedings that you have been involved in?

Cerie Bullivant: Quite the contrary. After I was cleared in the High Court and in the Old Bailey, the Home Office said that they still considered me to be a threat and a danger. I have since gone on to work with various human rights groups like Liberty and I have worked at Amnesty and Cageprisoners. I have been hampered from working on the issues that are closest to my heart and that I know the most about—control orders and TPIMs and these things—because my name has been on a list banning everybody I know who is on a TPIM from communicating with me even though I have gone through probably a more strenuous security check and proved myself as more innocent than anyone should ever have to. For even new people who came on to TPIMs, my name was on a list of people they were not allowed to speak to.

Q403 Chair: So how all of this has happened is still baffling to you?

Cerie Bullivant: About a month before my High Court appearance we were given little bits of information, but the main piece of information that we found out was by coincidence from our own investigations. We found out some of the secret evidence, which turned out to be a phone call that was made to the anti-terror hotline from an associate of my mother’s. Just before my High Court appearance, the lady got in touch with my mother again and said,

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"I am really sorry, I was drunk and I made a phone call to the anti-terror hotline and said that Cerie was probably a terrorist. He is 21, he is white. Why would he want to go to Syria? Someone must have brainwashed him. Why has he become a Muslim? He has grown a beard. Someone must have brainwashed him". She had made this call to the anti-terror hotline. We brought that up—

Q404 Chair: So it was anecdotal evidence made by a third party?

Cerie Bullivant: Who hadn't spoken to me since I had been converted.

Q405 Chair: Is your feeling that the evidence was never properly tested?

Cerie Bullivant: I would say that there was no impetus on either the security services or the police to put due diligence into testing the evidence, because in their mind it was never going to be thoroughly checked, there was never going to be an adversarial court system to test that evidence anyway.

Q406 Mr Clappison: Forgive me for asking this, but it strikes me as the first question on this. Presumably when you first came into contact with the authorities over this you told them what you have told us now. What did they say to you?

Cerie Bullivant: From the moment I was first stopped, during the whole process, I was completely open with the police. When I was stopped at Heathrow Airport, like any other member of society I was just in the mind-set that if the police are talking to me the best thing to do is to be as open as possible and they are going to realise that I have not done anything wrong. That questioning took nine hours at Heathrow Airport. They asked me about everything, about primary schools that I went to, what music bands I liked. We even joked about the fact that I like 1980s folk pop. The detail that we went into was incredible, but none of that mattered and when I was put on the control order I was still given no reason as to why it was that I was put on it.

Q407 Mr Clappison: In the course of your interview, did they tell you anything about the evidence that they presumably had, or believed they had?

Cerie Bullivant: They didn't tell me anything about the evidence and beyond simple and obvious questions such as, "Do you agree with 9/11 and 7/7?" They never asked me anything about terrorism or terrorism-related activities either. They didn't ask me any questions about would I be interested in going to Iraq, was I interested in jihad, what were my thoughts on this or that. Literally I was asked the most basic of questions on the issue and that was it.

Q408 Mr Clappison: You are telling us that you did not have the opportunity to hear what it was they had against you or to comment on it?

Cerie Bullivant: No. Even up until the moment in the High Court and even to this day I still don't know in detail what their evidence was and what their basis was for why they did that. To me, that is one of the huge problems of a system where you have secret

courts and secret evidence because you are denying the person who is accused of a crime any chance to defend themselves legitimately.

Q409 Ian Austin: Why do you think the judge said that he was satisfied that the Secretary of State's decision to make a control order was justified on the material available at the time?

Cerie Bullivant: To my recollection, the judge said that he thought that the Home Secretary at the time they put it on thought that what they were doing was the correct thing but that if he had seen it the day after it was put on he would have quashed it. He goes on to say that later on.

Q410 Ian Austin: No, he said that he was satisfied that reasonable grounds for suspicion do not now exist but at the time—

Cerie Bullivant: I think if you read the statement in full—I remember it quite clearly from the day—he did say that if he had seen it straight after it was put on and seen all of the evidence he would have quashed it then as well.

Q411 Ian Austin: Would you agree that there will be circumstances in which the intelligence services and the security services get information as a result of their operations and it is not possible to make that information public in a public court because to do so would put intelligence and security personnel at risk?

Cerie Bullivant: I would say that it is impossible to commit a crime in the UK, especially a terrorism-related crime, without leaving an evidence trail. If we want to establish a system that will keep Britain safe, what we need to do and the laws that we need to use are laws that will put people who are dangerous in prison, not under house arrest. We need to do that by open courts and by a jury. The gentleman giving evidence before me was saying that the jury is the cornerstone of British justice. If people have committed crimes then there needs to be evidence brought, a jury and a trial. The fact of the matter is that control orders are unfair and unsafe.

Q412 Ian Austin: Just one other question, when you absconded from the control order had you been subject to relocation or where were you living at that point? Had you been forced to move away from London?

Cerie Bullivant: No, I was never subject to forced relocation.

Q413 Ian Austin: Do you think it would have been more difficult for you to have absconded if you had been forced to relocate? If you had been sent away to a city where you knew nobody, hundreds of miles away, and you had no contacts and no friends would you have found it as easy to have absconded?

Cerie Bullivant: I don't think that would have made a demonstrable difference in my absconding.

Q414 Michael Ellis: The system of control orders that you referred to has been repealed by this Government, but the previous Government brought those in for a purpose. Do you accept that the reason

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why those orders and subsequent similar orders have been brought into existence is to prevent terrorist atrocities in this country? They have a good purpose behind them. You would say, of course, would you not, Mr Bullivant, that they are unfair, but the purpose behind restricting the liberty of certain individuals, a very small number of individuals, is so that the security services can satisfy a public need to prevent terrorist attacks? Would you accept that?

Cerie Bullivant: I would accept that the intention behind bringing them in is to prevent terrorism from happening but I would disagree that they are in any way successful at achieving that. There was a documentary, “Living with a Terror Suspect”, on Channel 4 around the time that control orders first came out. One of the terrorism suspects on a control order was allowed to go to five Underground stations. In my time on a control order, if I had been so inclined to be involved in terrorism I would have still been able to have gone and done those things. If somebody is a dangerous terrorist and we need to protect Britain from them, you don’t want them on house arrest, having to go and sign on at a police station once a day. This is not a correct way of dealing with them and protecting the British people.

Q415 Michael Ellis: Mr Bullivant, people on bail for ordinary offences are often required to turn up at police stations to report, they are often required to undertake curfews for routine non-terrorist offences. That is a system that has worked reasonably well. No system is faultless. You have described not knowing what was going on, that it has been secret courts and secret justice. Actually it is nothing of the sort, is it? What it is is that you don’t like the fact that you had this order imposed on you—and it is perfectly understandable from your perspective—but the authorities had what they believed to be good reasons to do so.

Cerie Bullivant: How would you describe a justice system where I was excluded from 90% of the hearings, where my solicitors were not allowed to go in and hear the evidence, where I was not allowed to put a defence forward, as not a secret court, not secret justice?

Q416 Michael Ellis: You were stopped at Heathrow Airport, were you not?

Cerie Bullivant: Yes.

Q417 Michael Ellis: Where were you intending to travel?

Cerie Bullivant: Syria.

Q418 Michael Ellis: Who were you travelling with, if anyone?

Cerie Bullivant: I was travelling with somebody called Ibrahim Adam.

Q419 Michael Ellis: Was that person the subject of any interest from the police or security authorities?

Cerie Bullivant: I had no way of knowing at the time.

Q420 Michael Ellis: Do you know now?

Cerie Bullivant: I know now that his brother was on remand for a crime.

Q421 Michael Ellis: When you learnt about that, that perhaps gave you some insight into why the police had stopped you from travelling to Syria.

Cerie Bullivant: At that time I was already on a control order.

Q422 Michael Ellis: As far as the general principle is concerned, although you say that the courts have erred in imposing this control order on you, isn’t the reality of the matter that the police and security services need some measure by which to restrict the movements of people against whom they have reasonably strong suspicions of serious terrorist intent?

Cerie Bullivant: If there are reasonable signs that someone is involved in serious terrorism intent then they are going to be committing a crime. Since 9/11 a whole raft of new legislation has been brought in criminalising a wide range of new areas of crime. You cannot get involved in dangerous terrorism-related activities without committing crimes. It is not possible. The police need to do a thorough job and if these people are dangerous they need to be in prison.

Michael Ellis: Would you not accept that there are people who are put on bail conditions all the time who are subsequently acquitted at court? It does not mean the fact that they were on bail pending their case was wrong in principle.

Chair: We need to move on, and I think we understand perfectly what you were saying, Mr Bullivant.

Q423 Dr Huppert: There are a number of things and we will come to some of them later. Apologies again for being late. There have been two particular issues that have been challenged over the current regime, things that people want to bring back from control orders, one of which was the internal exile, which you touched on earlier. The other was the fact that it used to be possible to have a control order for an indefinite period. Do you think that either of those would be effective compared to the effects they have on somebody subjected, perhaps wrongfully, to one of these orders?

Cerie Bullivant: It is worth knowing that from my perspective at least, and from the perspective of groups like Liberty, when you analyse the differences between control orders and TPIMs, on the vast majority of issues they are exactly the same. It is largely a rebranding exercise between two measures. How your life is affected living under them is the exactly the same. The major thing that was removed was the relocation. I would like to quote what Lord Macdonald QC said in a report for the Government about relocation. He said, “This is a form of internal exile, which is utterly inimical to traditional British norms. In the absence of any intention to charge, still less to prosecute, no British citizen should be told by the Government where he may or may not live. The review is clearly right to recommend the abolition of this thoroughly offensive practice. It is disproportionate and there is no justification for its

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retention.” If the best that we can do when we bring in a new piece of legislation is pat ourselves on the back that we got rid of a thoroughly offensive practice that has no justification for its retention then I think we have done quite poorly.

Q424 Dr Huppert: On the other issue about the longevity, there has been a lot of questions. There was an article in the *Telegraph* last week saying that limiting these to only two years was an incredible risk and sacrificing the safety of British people. As I think you know from my responding article, I don’t agree with that. What is your take on that? You have argued that people have not had strong evidence against them. How do you think of two years as a time period compared to an indefinite order?

Cerie Bullivant: Compared to an indefinite order, it is good that there is some sort of limit to it. It is sad that they can be extended on the basis of more secret evidence. As Michael Ellis was saying, it is sometimes the case that people who are accused of crimes have a certain loss of liberty until their case can be proven. The problem with TPIMs is that there is no case being made or no move towards gaining a prosecution or gaining a final solution. You are basically just putting a situation on ice for a period of time. Some may say two years is too long; it is definitely better than indefinite.

Q425 Mr Winnick: Before I ask you any questions, let me say that your comments about control orders are not lost on some of us; the point that you made that if there is any action to be taken against someone because of suspected criminal activity the law should take its course in the ordinary way. Your words certainly have been heard.

Cerie Bullivant: Thank you very much.

Mr Winnick: You are a convert to the Islamic religion. Do you accept, whatever weaknesses we may have in a democracy, that one of the fundamental rights of a country, based on the rule of law, is to be able to uphold one’s religion, to change one’s religion or, as in a case like mine, to have absolutely no religion whatsoever? Do you accept that should be the case insofar as is possible in every place?

Cerie Bullivant: Yes, I definitely agree. I think that the right to self-determination and the right to have freedom in how we choose to live our lives, as long as we are not causing harm or distress to other people, is one of the most important things that any society can hold on to. I hope that despite the rumblings about future legislation that we have been hearing, those rights for people to practise their religion freely, or no religion at all freely, are still maintained in this country, as they have been and as they were when I was growing up.

Q426 Mr Winnick: You were going to Syria obviously because you feel very strongly about the brutality of the Assad regime.

Cerie Bullivant: That was 2006. At that time, to be honest, I had very little awareness of the situation of, for example, the Assad regime and those sorts of things. The primary purpose of my travelling—I was 21, 22 at the time—was I had a bag full of toys and

flat footballs and I wanted to go and work with orphans. The thing that shocked and that I was aware of was the disparity in wealth between the poorest people in those areas and the richest and I wanted to go and see another culture, see the history—I love history—and basically work with young children, and teach English to sustain myself during that time.

Q427 Mr Winnick: Given your earlier answer about the right to pursue one’s religion or change one’s religion, are you concerned that some of those who are fighting the Assad regime, which undoubtedly is a very brutal regime to say the least, are very intolerant and some of those forces have been exposed who obviously want to bring about a system where no one could change their religion and anyone who does not practise that religion would be punished accordingly?

Cerie Bullivant: I strongly oppose the Assad regime and the brutal crimes that he has committed against his own people. Equally, though, I am no fan of any sectarian activities and wars. I think that there is no good to be had from any situation where one group of people kill another group of people on the basis of their religion.

Q428 Mr Winnick: It is sometimes said, and it may well be totally wrong, that those who convert, not just to Islam but to Christianity or Judaism or what have you, tend to take a more fundamentalist line, particularly it is emphasised as those who have converted to Islam in the last few years. Do you think that there is any foundation for that argument?

Cerie Bullivant: I have seen no studies or statistical evidence to show that there is any more predilection among converts to get into any sort of fundamental version of Islam. Many converts I know follow the Sufi branch of Islam and are very apolitical and spiritual. I think that every man makes his own path. One of the fundamental aspects of Islam is the concept of ummah and caring for your fellow man in every country and every place. When some people take on that concept of caring for everyone in every place it becomes painful for them to then see people who they consider brothers and sisters being bombed and killed in other countries as well.

Q429 Paul Flynn: One of the sections of the judge’s words that my colleague failed to read out was that he said, “For the reasons I have given in this and in the closed judgment, I am not prepared to uphold the present order, nor would I have upheld the previous order”. This completely exonerates you, doesn’t it?

Cerie Bullivant: Yes. I was very happy with the judgment of the judge and everything that he said. He repeated three times that there were no reasonable grounds for suspicion that I had ever been involved in terrorism-related activities.

Q430 Paul Flynn: It has been suggested by my colleague Michael Ellis that the control orders were essential and something that was universally approved of in this House. Do you recall at the time that they were bitterly opposed in this House as being illiberal, unnecessary, an overreaction and something that was designed to grab favourable headlines for the

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politicians involved as appearing to be tough on terrorism?

Chair: Order. Could Mr Flynn put his question, please?

Paul Flynn: I was in the House at the time. Mr Ellis was not.

Cerie Bullivant: I agree with you that both control orders and TPIMs are largely exercises in flexing the muscles and showing how strong people can be on terrorism, when in fact they are measures that do very little to protect us and alienate the Muslim community and make them feel like a second-rate suspect community. I feel that it is very important that we learn the lessons from the past. My family have Irish roots and I think no one would say now that internment was the most effective tool for dealing with the IRA. In fact the more you go down these draconian paths, the more you try to close things down, the more you are going to push people towards becoming more extreme against you. The better path I would propose would be to open up discussion of ideas and let the truth win out by the quality of its truth, if that makes any sense.

Q431 Paul Flynn: You knew a friend of a friend of someone about whom there might have been some questions, there was a drunken phone call from someone who had not been in touch with you since you became converted, and this was the basis of an attempt to deprive you of your liberty.

Cerie Bullivant: They were the only two things that I have been told about, yes.

Q432 Paul Flynn: Just the last question, was there ever any attempt to de-radicalise you at any time?

Cerie Bullivant: No. In my interactions with the security services, I have never been asked about involvement in terrorism. My interactions with the Home Office have been that even when the judge gave his initial ruling, before it became a written judgment and it became the law, he said at the end of the hearing in December that he would be quashing the order, he would not be opening any grounds for appeal and the order would be quashed. He said that when it came down as a written judgment then it would become the ruling and the law, but he told everyone before that that would be the case. Even then the Home Office refused to reduce the conditions of my control order or even acknowledge that they had been wrong to do it in the first place.

Q433 Paul Flynn: Do you accept that at the time because of fear and so on of what was going on the authorities did behave in an hysterical way that was understandable and the feeling was that everyone was assumed to be guilty unless they were proved to be a Christian?

Chair: If you could make your answer as brief as possible, please.

Cerie Bullivant: Yes. I think you are right that there was an immense amount of fear around at the time, but if we are going to look at best practice here then the case of Anders Breivik and the reaction of Norway is a much better place to look. If we act through fear

then we are only going to create fear in other communities as well and a society of fear.

Q434 Chair: Do you come across people who want to go abroad to act as foreign fighters? Have you come across people like that?

Cerie Bullivant: I have, yes.

Chair: We accept that you are not one. Do you know why they do this?

Cerie Bullivant: Generally speaking, from the people that I have spoken to—and this is a very large issue within the Muslim community at the moment—as I said there is a concept of ummah within the religion of the universality of human brotherhood. Within that context, when people see that civilians are being killed with TNT, dynamite bombs, barrels of chemical weapons being dropped, phosphorous being used on playgrounds, as we saw on *Panorama*—

Chair: They want to go and defend them because of the concept of ummah.

Cerie Bullivant: The primary thing that I have heard from people is that it is about defending other innocent people around the world.

Q435 Chair: Do you endorse what they are doing? Do you understand that as a legitimate way of taking Islam forward?

Cerie Bullivant: I think that what is happening in Syria especially at the moment is a hugely complicated issue. To go into it now—

Chair: We don't want you to talk about Syria, but do you understand why people do this and do you endorse what they do?

Cerie Bullivant: I understand what their thinking is and where they are taking their thoughts from. I think that in all of these situations there is a multitude of different groups and aspects and ways of going around solving things and I can understand why someone would choose to do that.

Q436 Dr Huppert: Can I go to the criminal trial that you faced for breaching the control order? Apologies if this was covered before I got here. You had seven counts of breaching and the jury decided to find you not guilty. You said that you had breached the control order. What do you think it says that 12 people presumably felt that the process was so unfair that despite the fact you said you had breached it, they nonetheless insisted on finding you not guilty?

Cerie Bullivant: Those seven counts that I was actually tried for were test counts. There were over 45 breaches and for the vast majority of those I didn't say that any of them didn't happen. I accepted every single one of them, but the fact was that a jury of 12 ordinary decent people realised that the measures and the pressure that it put upon me, as I was saying before—I don't know if you were here then—having those conditions above you is like a sword hanging over your neck. That pressure and high anxiety of living in that situation led to a situation where there was no alternative but for those breaches to happen. The jury, which as was said before is a cornerstone of British justice, saw that no crime had been committed in breaching that order, I believe rightly so.

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Michael Ellis: Mr Bullivant, just to explain that Mr Vaz has had to go to another Committee so I am acting as Chair.

Q437 Nicola Blackwood: I wanted to follow up on some of the comments you made about meeting individuals who felt like they might go off to other countries and join fighting. We are conducting an inquiry into counter-terrorism and one of the issues that we are interested in is methods of radicalisation. In the work subsequent to the quashing of your control order have you come across some of these methods of radicalisation? Do you think it is more likely that individuals are coming across radicalising material online or in mosques or at university or by other methods? What is your assessment of this?

Cerie Bullivant: Strangely enough, the thing that radicalises people the most and straight off the bat is not in the mosques or online. It is on the BBC. Every day when people turn on their TVs and read their newspapers they see these things going on. We live in a global world and a connected world and it is impossible that it is not going to affect them somehow. The question then becomes how do they channel that, and ironically the talk of shutting speakers down and these sorts of things are going to force them into going into darker places to look for solutions and searching the internet where they are going to see things that are much worse than anything you will ever find being preached in any mosque. I think at the moment the larger sort of push for this, there is this idea that radicalisation is coming from a religious point of view, that there is a certain preacher or a certain group. Obviously there is a certain amount of that coming out from—

Q438 Nicola Blackwood: I think the thing is, Mr Bullivant, if I looked at the BBC and saw the images that we have all seen of the terrible suffering of the Syrian people and I felt like I wanted to do something I wouldn't know where to start to go and join a Syrian militia. Somehow you have to find that out. The question I am asking is where are these young people finding the information that is enabling them to go and fight? It must be somewhere. It can't just be from the ether.

Cerie Bullivant: In the case of Syria specifically, it is on the border of Turkey. I have heard of young lads who don't know anyone or anything basically buying a plane ticket to Istanbul and heading off on their own. It is not like, for example, in Afghanistan where someone would need to hook into a network and know people X, Y and Z. It is why the position in Syria is so different to other theatres because it is just so easily accessible.

Q439 Nicola Blackwood: With Syria they get on a plane and they head for a border but with other theatres they have to find contacts. How would they find those contacts? Have you come across any individuals who have done that?

Cerie Bullivant: I wouldn't know the specifics of how you organised something like that.

Nicola Blackwood: I was just wondering if in your work you had come across that.

Cerie Bullivant: When it comes to people arranging to go somewhere like Afghanistan to get involved with maybe a group like the Taliban, for example, there is no mosque in the country now that would preach that or support that. There is nowhere you could go openly and talk about these things. That situation does not exist in this country anywhere and anybody who tells you anything different is fibbing, to be honest. How people do it has to be through personal contacts and personal connections that they already have. I don't know a great deal about that. That is not my area of expertise and I wouldn't want to talk any more—

Q440 Nicola Blackwood: One of the issues that has been raised with us is that a common location for radicalisation is in prison. During the time that you were held in remand, were you in any way exposed? You said not to de-radicalisation, but did anybody approach you during that period to try to make the most of any grievance that you might feel, as it turns out justifiably?

Cerie Bullivant: When I was in prison, the reaction that I saw from the Muslim prisoners, the situation that I was in, was that they were generally speaking the most helpful of the prisoners, not just to other Muslims but to the non-Muslim prisoners as well. They would be the ones that would share their drink and food. I saw people giving dawah, I saw people calling to Islam, and I saw a lot of people converting while they were in prison. I did not see people calling for jihad in prison. I think that everybody in prison knows that that would be a very quick way to get your sentence extended. I was in a remand prison as well. No one would want to make their case any worse than it already was. I know of one other person who was on a control order case and the fact that he had spoken to some people about Islam and they had chosen to accept Islam was brought up as evidence against him in his control order hearing, that he had been allegedly radicalising people in prison.

If you want to go into the brand of Islam in prison, it is generally speaking quite orthodox, quite Salafi, if you want to coin a term, but there is certainly nobody there who has the gumption to start telling you, "As soon as you get out you need to head off to Afghanistan", because it would be a madness in prison.

Michael Ellis: Thank you very much, Mr Bullivant. If there are no other questions from my colleagues, thank you very much for taking the time to come in to see this Committee today and give evidence. It has been very helpful and interesting and the Committee appreciate it. Thank you for coming in.

Examination of Witness

Witness: **Nigel Inkster**, International Institute for Strategic Studies, former Director of Operations, Secret Intelligence Service MI6, gave evidence.

Q441 Michael Ellis: Mr Inkster, thank you very much indeed for coming in. I am going to start by asking you to identify a little bit about your background and why you believe you are before this Committee today.

Nigel Inkster: My current title is Director of Transnational Threats and Political Risk at the International Institute for Strategic Studies, which is a think-tank specialising in international security and issues of conflict.

Q442 Michael Ellis: Where were you before that?

Nigel Inkster: Prior to that I was in the British Secret Intelligence Service, retiring as the Assistant Chief at the end of 2006.

Q443 Michael Ellis: You were previously Assistant Chief of MI6 as it is sometimes called. Is that right?

Nigel Inkster: Yes.

Q444 Michael Ellis: I think you have been quoted, Mr Inkster, as having said with reference to the Snowden leaks that they were embarrassing, uncomfortable and unfortunate, but you said that it was likely that most targets of GCHQ were already well aware of their capabilities. Does this mean that you disagree with the suggestion that the Snowden revelations were detrimental to national security?

Nigel Inkster: No, I do not in the slightest. I believe they were clearly very detrimental to national security and I think the most important thing to say about that is that as the scope of Snowden's leakages has become evident, the extent of that damage has become all the greater. It is much more serious than I think I at least was inclined to infer.

Q445 Michael Ellis: Can you expand on why you think they have been so damaging?

Nigel Inkster: I think from a number of different points of view. It is important to bear in mind that details about the capabilities that Snowden has been divulging, making public, have been developed in relatively recent times and reflect the rapid developments in the world of information and communication technologies with which the intelligence services—

Michael Ellis: I wonder if I can just stop you in mid-flow there, Mr Inkster. The Division bell is going. The Committee is suspended for a House of Commons division for 10 minutes. We will come back to you, Mr Inkster.

*Sitting suspended for a Division in the House.
On resuming—*

Q446 Michael Ellis: The Committee is now quorate. I am going to ask you, Mr Inkster, to carry on where you left off. You were expanding on why it is you believe that serious damage was done by the Snowden leaks.

Nigel Inkster: As I said, if you look at the pace of development in the information and communication and technology industry, this has been extremely

rapid, and the number of communications options that are available to individuals and groups is expanding and changing all the time. Of course, all of this has happened not at the behest of or on behalf of the intelligence services of the Western world. They have had to try to keep pace with this explosive growth as best they can and it has been a real challenge for them, but that I think they have met remarkably well, using a combination of different techniques.

The real value of the capabilities that have emerged over the last five or six years is that they appear to provide quite a wide range of coverage of the communications options and create in the minds of potential malefactors significant ambiguity and uncertainty about which channels of communication might be safe and which channels of communication are likely to be monitored. That ambiguity, that uncertainty, has been very significantly eroded and I think serious malefactors now have a much better idea of which communication techniques they should not be using.

Q447 Michael Ellis: In other words, it is your strong contention that the Snowden leaks have made it a lot easier for malefactors, as you call them, those intending to do harm, to go about their unlawful business and their criminal intent?

Nigel Inkster: I think we need to make a distinction between those at the kind of low end of the spectrum who, not to mince words, are stupid and are going to get caught anyway versus the ones we really need to worry about, who are not stupid and are extremely calculating, extremely aware of ICT capabilities. Those are the ones who are in a better position as a result of what has occurred.

Michael Ellis: They are sophisticated.

Nigel Inkster: They are more sophisticated actors, yes.

Q448 Michael Ellis: There are those that have suggested what GCHQ and NSA want is effectively something tantamount to a surveillance state and have referenced spying on everybody, the general public. What do you say to those who position themselves in that way?

Nigel Inkster: This is a completely unrealistic and misleading representation of what has been taking place. I think such comments betray a fundamental misunderstanding of the nature of big data and the role that this plays in modern—

Q449 Michael Ellis: Do you mean we do not even have the ability to handle the amount of data that is produced? Is that—

Nigel Inkster: No, that is not my point at all. My point is that big data has a quality of its own. That quality is that it enables analytics of big data to identify patterns of correlation that are simply not obvious with lesser quantities of data. For example, why did the intelligence services of various European countries provide significant quantities of data from their own national telecommunications to NSA?

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Answer: because NSA, by aggregating this up with other data, can make much more sensible use of it than could be done by using the lesser quantities. The point about all of this is that the aim of the NSA and GCHQ programmes is not to be able to spy on everybody. What they are doing is putting through sophisticated computer programmes huge quantities of data, with the computer being tasked to look for very, very narrow issues on which it has been programmed to register. Once that has been done, if the agencies wish to dig down deeper and look at what is in those communications, they have to seek a separate warrant for that.

Q450 Michael Ellis: Finally from me, what do you say to Sir John Sawers, the current Head of MI6, when he said before another committee, the Intelligence and Security Committee, that terrorists were rubbing their hands with glee about the Snowden leaks? Do you agree with that assessment?

Nigel Inkster: I think Sir John is probably better placed than I to make that judgment, but I certainly think that, as you put it, the more sophisticated end of the terrorism spectrum, there will be, at the very least, relief that there is greater certainty about where the risk lies for them.

Q451 Dr Huppert: Mr Inkster, can I turn on to the issues about oversight of the agencies and how they work? Even before any of this came up in 2010, you said to the Intelligence and Security Committee that there is evident dissatisfaction with the oversight arrangements, existing arrangements still do not command public confidence and highlighted that citizens have a very direct interest in intelligence and security and a legitimate desire to know more about what is being done in this arena. Do you still agree with those comments?

Nigel Inkster: Can you remind me where I said that?

Dr Huppert: *Survival*, 52.2, April 2010, page 199.

Nigel Inkster: All right, yes. I think that there is always going to be this tension with oversight arrangements in relation to intelligence. By definition, there are certain aspects of this activity that simply cannot be made public; to make them public would be to vitiate their effectiveness. People are always going to want more from the oversight arrangements of the intelligence community than those arrangements are likely to be able to give. We need to bear in mind that in the overall scheme of things, political oversight, democratic oversight of the intelligence services in this country is a relatively recent phenomenon; it did not get going until 1994. It is worth reminding ourselves it was the intelligence services themselves who asked for this. It was not imposed upon them. The nature of that oversight has evolved over time and I think has changed quite significantly. We now see the current committee having been given increased powers, increased resources and I expect this process to continue to evolve.

Q452 Dr Huppert: Do you think it now does command public confidence in the way that it did not three years ago?

Nigel Inkster: It depends what you mean by “public confidence”. I think there will be—

Dr Huppert: But they are your words.

Nigel Inkster:—a vociferous element, the chattering classes, for want of a better word, who are likely never to find these arrangements satisfactory. I think we have seen a lot of evidence of that in the context of the Snowden revelations. As to the bulk of the British public, I suspect that they are in the main probably not that interested.

Q453 Dr Huppert: When you said a new compact needs to be worked out, what was the new compact you were thinking of, because while there have been small changes to the ISC, they are not hugely substantial. It does not sound to me like the sort of new compact that I read in that article you wrote.

Nigel Inkster: If I meant anything by a new compact, I meant an acceptance and an understanding that certain things could not be made public, but that would not be a comment on the quality of the oversight, simply that the public would need to accept that in exchange for an acceptable level of oversight and an acceptable arrangement, some things would have to remain secret.

Q454 Dr Huppert: I will have to try later to match your words now with that article, but can I turn to a specific example of oversight? You are presumably familiar with section 94 of the Telecommunications Act 1984, “Directions in the interests of national security”?

Nigel Inkster: Not in detail, no.

Michael Ellis: Perhaps you could expand, Dr Huppert.

Dr Huppert: It is a section of the Act that says, “The Secretary of State can give people directions of a general character as appear to be necessary in the interests of national security or relations with a government of a country or territory outside the United Kingdom”. They have complete *carte blanche* to direct any telephone company, anybody covered by the Telecommunications Act, to do anything. There is a clause that says, “The Secretary of State has to lay before each House of Parliament a copy of every direction”, unless they think that is against the interests of national security or relations with the government of a country or territory outside the United Kingdom or the commercial interests of any person and money can be paid. It applies to Ofcom and all providers of public electronic communications networks. There is nothing mentioned here about oversight or scrutiny. This is quite a huge power, to do anything, particularly when it is, “Relations with a government of a country outside the United Kingdom”. You must have come across this in your time at MI6.

Nigel Inkster: No. You would be surprised to learn that I did not. This was not something that featured in my preoccupations, and in any case, I think it would be very difficult for me to talk in that sort of specificity about what I was involved in while I was in the intelligence services.

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Q455 Dr Huppert: But in general terms, would you expect for a power like that, which has no constraints, as written? There is to be consultation, but everything must be kept private, everything goes to Parliament, unless it is in the interests of another country not to do so, which basically means nothing ever comes to us. Are you surprised by that? Do you think there should be some sort of oversight mechanism, some sort of parliamentary accountability?

Nigel Inkster: It depends what for. If we are talking about the bulk collection of overseas communications data, then I think that is something, to my understanding, that the ISC is well aware of, in fact. I think Hazel Blears last year made the point in respect of GCHQ's bulk collection programmes the committee was well aware of what programmes were being undertaken, what had been done to look at them and had been given extensive briefing about them, so if we are talking about what GCHQ is doing by way of bulk overseas collections, I think the understanding is there.

Dr Huppert: Different members of the ISC have said different things. I have further questions, but I will allow others.

Michael Ellis: Perhaps we will come back to you, Dr Huppert. Mr Winnick.

Q456 Mr Winnick: You have just now referred—or at least a few moments ago—and used the term “chattering classes”. Would that be your description of those who have taken an extensive interest in Snowden's revelations?

Nigel Inkster: Perhaps. There are different constituencies who have taken an interest in Snowden's revelations, though I think speaking purely subjectively, I sense a degree of media weariness with some of this. I think that civil liberties groups are bound to take an active interest in this.

Q457 Mr Winnick: Any reason why they should not?

Nigel Inkster: None at all, none at all, but I think the difficulty is that sometimes the debates that we are seeing are still being characterised by misperceptions that have taken hold within the media. In fact, I have written an article about this for the forthcoming edition of the IISS in-house magazine, *Survival*, which highlights what I think some of these key misperceptions are. I would be happy to share a draft of that with your staff.

Michael Ellis: Please do send it in.

Nigel Inkster: I think of course it is entirely legitimate for people to want to understand whether the civil liberties of British people are being respected, of course it is, and I could hardly say otherwise.

Q458 Mr Winnick: In a society based on the rule of law, which presumably you are as keen and enthusiastic about as the rest of us—you did your stint for a long number of years and presumably doing your utmost to make sure that we remain a society based on the rule of law and against any attempt to terrorise the people in this country—don't you think it is useful that papers like the *Guardian* and *Liberty*, the organisation, and the rest should be extremely

concerned over the amount of intelligence-gathering that has been demonstrated by the Snowden revelations?

Nigel Inkster: Not necessarily. I think that we are looking at a situation here in which the capabilities that have been developed have been a response to a particular crisis, which at the time was perceived as a major crisis, the threat from a globally-enabled and globally-deployed terrorist movement capable of doing significant damage, and a movement whose emergence coincided with these technical capabilities that we are talking about and whose activities were significantly enabled by these technical capabilities. In the circumstances, it would be rather surprising if the intelligence services had not sought to try to get some kind of assurance of visibility where this mattered.

I think the issues that concern civil liberties groups in this country derive from the fact that these programmes have necessarily been secret. Although I think there is certainty in conviction within the intelligence community and within Government that the programmes were conducted lawfully, in accordance with the laws that exist, it is inevitably the case when intelligence services are concerned that they are seeking to apply the law in difficult circumstances, conditions that had never been envisaged by the law-makers, where there is no precedent, and where you are always going to be on the leading edge of jurisprudence and there is no safe centre. This is always going to be a contentious area.

Q459 Mr Winnick: In the United States, there has been a considerable amount of debate, including a criticism from those who previously offended to the hilt, the US intelligence gathering, and criticism has now been levelled at the amount of gathering that has been revealed. Don't you think that is a healthy aspect and would never have come about without Snowden doing what he did do?

Nigel Inkster: I am not sure that we can say that with confidence. I think that at some point some of these issues would have had to come out. I am not sure that the way in that Snowden has gone about this is necessarily the right way to do it, and it is not obvious to me why Mr Snowden is better qualified than anyone else to judge what intelligence programmes the United States Government should be running.

Q460 Mr Winnick: Last question, if I may, Chair. Does the name Daniel Ellsberg mean anything to you?

Nigel Inkster: Yes.

Q461 Mr Winnick: You know of course that Mr Ellsberg revealed the Pentagon papers regarding the Vietnam War that caused a huge outcry at the time, the denunciation of him as a traitor and the rest of it, now considered in a somewhat different light. He has said that Snowden has followed his example and has praised Snowden. Do you gather anything from that?

Nigel Inkster: I think my views on Mr Snowden are of little consequence, as I think now is Mr Snowden himself. He is simply a vector through which these revelations have been made and at this point I do not think he has any further relevance. I would simply

point out that Daniel Ellsberg did not seek asylum in Russia, he stayed to face the music.

Q462 Nicola Blackwood: I wanted to change direction of the discussion slightly to discuss links between terrorism and drugs trafficking. I know that this is a subject on which you have written. I understand that there are emerging significant links between terror groups and drugs trafficking in North-West Africa and that there have been reports of smugglers adopting religious or jihadist rhetoric in order to justify the fight against security services and also perhaps to recruit drugs mules. I wonder if you believe that the overseas capacity-building and the work that the UK has been doing in order to try to work on these issues is sufficient and effective?

Nigel Inkster: I think that what we are seeing in North Africa and the Sahel in particular is a manifestation of a wider phenomenon, which is a security situation in which insurgency, terrorism and criminal activity co-exist to varying degrees and different entities become involved in any and all of these activities, depending on the circumstances. That is certainly what we are seeing in the Sahel, and that is an area in particular where smuggling high-value goods has been a way of life for generations, in the absence of any credible alternatives.

It is not just a phenomenon that is restricted to Africa and the Sahel. We have seen it, for example, in parts of Latin America, where FARC, the main insurgent and terrorist movement, has also been a prime mover in the narcotics trade. That phenomenon undoubtedly does exist. The person who was responsible for last year's In Amenas attack was primarily a kind of smuggler/jihadist—emphasis on smuggler—until he refocused his attention towards a more ideological approach. The phenomenon is very real and it does present a particular difficulty for both these parts of the world, which actively suffer the most damage from terrorism.

If you look at the statistics for the last couple of years, by far the majority of terrorist attacks and terrorist casualties have taken place in these remote and ungoverned areas like Nigeria, like the Sahel, Pakistan and Afghanistan. It also poses a dilemma for developed Western states, who have much better capabilities and institutions to deal with the problem of terrorism as it affects them, but faced with the dilemma of what to do about the problems that we see in places like the Sahel, because there is always a risk that if you become involved directly in these security situations, you risk either making them worse or inviting blow-back on yourself, so making a judgment about where and how to intervene is very difficult.

Q463 Nicola Blackwood: Mr Inkster, I am aware that we have counter-terrorism and extremism liaison officers, we have a network of those in particular flashpoints.

Nigel Inkster: Yes, sure.

Nicola Blackwood: We also have SOCA liaison officers who are deployed to deal with specific areas of concern regarding drugs trafficking, and of course East Africa would qualify quite highly for that. We also have a justice and human rights partnership

programme, which is put in place to try to raise the quality of justice and security practice in certain countries of concern and make sure that the emphasis is on building evidence-based cases against suspects. I suppose what I am looking for is an assessment of whether you think this network of overseas effort is effective or whether we should be trying to focus on alternative approaches.

Nigel Inkster: I think the general approach is the best approach that is on offer. It enables you to engage, hopefully with some effect, in the areas concerned without yourself having to put boots on the ground, to the point where you become a major actor and influence the situation. Yes, in principle I think it is a good idea. In practice, much depends on the specific circumstances and much depends upon the resources that have been deployed relative to the severity of the threat, and that is of course a judgment that has to be made. There is no reliable formula to tell you how to do that. Where the UK is concerned, my understanding is that in the main, the United Kingdom focus is to work with partners rather than alone. There are these arrangements that you cite. I think they are fine as far as they go. I have two possible concerns. One is that they may be under-resourced, given the scale of the problem. The number of SOCA officers that are deployed in this rather large and insecure region is pretty small. Secondly, I do wonder about the possible downside of a stovepipe approach, whereby SOCA only deals with organised crime, does not stray into terrorism and has no remit for insurgency and I wonder whether the approach that is being taken is a broad enough focus to encompass the totality of the security threat that presents in these areas.

Nicola Blackwood: Thank you very much.

Q464 Paul Flynn: In 2006, long after Osama bin Laden had left Afghanistan and the al-Qaeda left Afghanistan, when only two British soldiers had been killed in combat, the British Government decided to go into Helmand Province in the hope that not a shot would be fired, and their mission was to end the drugs trade. Did this have the support of the security services at the time and how successful was that?

Nigel Inkster: Of course when you say the support of the intelligence services, in terms of a recognition that this mission was going to go ahead and would need to be provided with intelligence support—

Q465 Paul Flynn: Did they support the view that not a shot would be fired—

Nigel Inkster: No, I do not think so.

Paul Flynn:—and that drugs would be eliminated?

Nigel Inkster: No, I do not think we did. As to the drugs problem, I think the drugs problem in Afghanistan was far more severe and intractable than anyone had imagined when the United Kingdom first took responsibility for this. There was a reluctance to recognise that the agendas of counter-insurgency and counter-narcotics run counter to each other, which I now firmly believe they do.

Q466 Paul Flynn: The Intelligence and Security Service Committee here, and all other committees involved in defence—and presumably the security

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services—were also cheerleaders for the view that Saddam Hussein had weapons of mass destruction that were a threat to Britain. Doesn't this suggest that we need better knowledge and better information of the kind that came from Edward Snowden? I am putting to you that the last two disasters we have had, the Iraq War, fought on an entirely false basis, and the incursion into Helmand, which cost us 427 lives, in addition to uncounted Afghanistan lives, were errors. The security services, which are costing us £2 billion a year, were part of the belief, the set of ideas, that led us into those terrible mistakes.

Nigel Inkster: On the Iraq inquiry, I think we can do no better than await the outcome of Lord Chilcot's report.

Q467 Paul Flynn: It is already three years late, as you know, for reasons—

Nigel Inkster: Indeed, yes. On the Afghan point, can I make the point that the British military did not go into Helmand Province on the recommendation of the intelligence services. They absolutely did not. That was a decision that they took on their own recognition.

Q468 Paul Flynn: Do you believe that Angela Merkel is a threat to the United States or that Turkey is a threat to the United Kingdom?

Nigel Inkster: That is not a judgment for me to make and I think it is not for me to second-guess what the—

Paul Flynn: Can you conceive of any reason why we should be spying on them or why—

Michael Ellis: Mr Flynn, would you just allow Mr Inkster to answer the question that you put, if he wishes to go further?

Nigel Inkster: Sorry, which one?

Michael Ellis: Is Angela Merkel a threat to the United States?

Nigel Inkster: I think that is a judgment for the United States to make. There is no doubt that there are significant areas of policy difference between Germany and the United States. There are areas of German policy that the United States may have concerns about or may not feel well-sighted on. Whether listening to Mrs Angela Merkel's mobile phone, if indeed this is what happened, is the best way to do it, that is not a matter for me to pronounce on.

Q469 Paul Flynn: Don't you think the rest of we citizens of Europe are benefiting from the fact that Edward Snowden has revealed to us that America is so neurotic that they listen in to Angela Merkel ordering groceries, and isn't it right that we have that information, and should we not applaud Edward Snowden as a whistle-blower?

Nigel Inkster: Sir, you may. I do not. I regard him as a traitor and—

Q470 Paul Flynn: Okay. What about the rest of the information about what happens to ordinary citizens? Do you think that this is something that we should be aware of, that every phone call we make, every visit we pay, that someone can find out where we are, what we are seeing, who our friends are? It is an outrageous intrusion into the lives of ordinary citizens in Britain,

of which we were kept in ignorance, and Edward Snowden has allowed us to know that.

Nigel Inkster: I think this point about the ubiquity of visibility that comes from modern ICT is more an issue for the people who have manufactured and developed these capabilities. After all, it was not the intelligence services who asked the people who manufacture this to put GPS into it, to put all these other capabilities in that enable somebody, if they care to do so, to know what I am doing and where I am at almost any time of day or night. It is simply the reality of the modern ICT world that we have moved towards, which has not been well-understood, not been well-appreciated, and I entirely accept that there is scope for a debate on the way in that these communications are developing, the implications for individuals, but I think that the intelligence component of this can only be one small element in that debate, not the primary element. The intelligence services—

Q471 Paul Flynn: A final question: do you think that the excessive overreaction to what were terrible events and the way that the Western Christian world seemed to have demonised the Eastern Islamic world is itself a cause of antagonism and creating a sense of injustice, because many of the terrorist atrocities in this country were home-grown, from people who were brought up and educated here? If we had had transparency in the past, rather than feeding on secrecy and living in the darkness of not knowing what was going on, that has in fact led to an increase in tension and some of the absurd injustices, such as the control orders.

Nigel Inkster: I think this is a rather large question for me to answer in the space of a couple of minutes.

Paul Flynn: You can say yes.

Nigel Inkster: I think the short answer is no, I am not convinced that that is.

Q472 Michael Ellis: Do you think, Mr Inkster, that the law enforcement framework has kept up with technology? You referred to the advances in technology and your mobile telephone and our mobile phone GPS connections. Do you think the law enforcement framework, in other words, the authority vested in police and law enforcement agencies to do surveillance on those persons they suspect reasonably to be terrorists or criminals, has kept up with the technology?

Nigel Inkster: Bulk intercept of civilian communications is not a new phenomenon, it has been around for some time, and I think the legislation that we have in this country, and to a large extent in the United States, has been framed to reflect that recognition, that bulk intercept is not a new phenomenon. There have been significant changes in the legislation here. The Intercept of Communications Act morphed into the Regulation of Investigatory Powers Act, as it became evident that these additional capabilities were required. It is not impossible to imagine that further legislative changes may be required at some point in the future.

Q473 Mr Clappison: Can I just change the subject a little bit? We were hearing in our previous evidence

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session about people going from the United Kingdom to fight in Syria. What concerns do you have about that?

Nigel Inkster: It is very difficult to say with confidence what the effect of this in the United Kingdom is going to be. We have seen this phenomenon of terrorists moving from this country or people moving from this country to take part in military or jihadist-type conflicts in a number of different places and the impact of that I think has been different in each case. In the case of Afghanistan and Pakistan, we know perfectly well what the impact has been, that a number of people went there to, as they thought, fight in Afghanistan and were turned back and sent to undertake attacks in this country. In Iraq, this did not happen. Most people who went to take part in jihadi activities in Iraq either were discouraged and came back home or went on a one-way ticket, either volunteered or were volunteered to be suicide bombers, and so simply did not come back. In any case, I think the leadership of what became the Islamic state of Iraq was not particularly interested in orchestrating attacks against the United Kingdom, so there was no particular imperative to do so.

In the case of Syria, at the moment it is not that evident to me that the leadership of the various jihadist groups operating there has a particular animus against the UK or has a particular imperative to orchestrate attacks here, although the Metropolitan Police have recently made some comments to suggest that this may be happening. For me, the real worry about Syria is that it has the potential to become the crucible for a new generation of international jihadists, rather in the way as happened with those who took part in the anti-Soviet jihad in the 1980s, that they become a kind of band of brothers, united by shared experiences, shared outlooks, shared ideology, and that they then move on looking for new forms of jihad to undertake, one of which could well consist of attacks in countries such as the UK. I think that is an entirely understandable concern. There is not a huge amount I think that we can do about it, other than monitor closely the activities of such people and have the best understanding we can of who they are communicating with and what they are saying and what they are doing.

Q474 Dr Huppert: There are many things I could come back on, but just one, if I may, Mr Inkster. As you probably know, a number of the large tech companies now publish transparency reports—I think Google started to do this, Microsoft and others—saying how many requests they have had for data and how many people that relates to. They do not of course identify which individuals and I think we agree that is something that needs to stay private. They and many others have called for Government and government agencies to publish similar information, again not identifying who is being requested, just to give a sense of scale so that there is the possibility of scrutiny. Currently for communications data, this information is published en bloc. I think there were 570,000 data requests last year, but not who made

them. Do you think the Government could do something like that?

Nigel Inkster: Conceivably they could. Whether it would be desirable to do so, I am honestly not sure. I do not know what the answer to this question is. That is a matter the Government is going to have to make a judgment about. Are there reasons why this should not be done in this particular case? I find it very difficult to answer that question.

Q475 Michael Ellis: Mr Inkster, Snowden is said to have been one of 850,000 American federal employees or contractors who had access to national security data. How could Washington in those circumstances have been expected to prevent a leak like this eventually occurring?

Nigel Inkster: I referred to myths and misconceptions and this is one of those myths and misconceptions. The number of people in the United States intelligence community with top-security clearances is 1.4 million, according to a 2012 report by the National Director of Intelligence. It is 1.4 million who have top-level clearances out of a total of 5 million Americans who have some sort of security clearances. But the number of people from that 1.4 million who would have had access to much of the Snowden material will have been much less. Having access to a particular level of security classification does not automatically mean having access to all the data, and having access to the data does not equate with knowing how that data was produced. I think that this is a very self-serving argument that does not stack up. I think within the American intelligence community there is an issue of the size that this community has risen to, and in particular the number of contractors within that system. I think 70% of the US intelligence budget currently goes to contractors of one sort or another.

Q476 Michael Ellis: So you think there is an acceptance that it has gone a bit too far?

Nigel Inkster: I think that there is an acceptance. There has always been a concern within the more thoughtful elements of the intelligence community about the reliance on contractors. There has always been a concern about the shift that has taken place post-9/11 from a need to know system to a rather over-enthusiastic need to share approach and the breakdown of traditions of compartmentalisation that needs to be brought back.

Q477 Michael Ellis: Can you say briefly how many you think in this country have top-level clearance?

Nigel Inkster: I do not know, but it is certainly going to be a vastly smaller number. You have to understand that the American system is sui generis and the United States is a global intelligence power with no peer, so in that sense comparisons with the UK are perhaps invidious. But I think here the number is vastly less.

Michael Ellis: Mr Inkster, thank you very much indeed for coming in. The Committee is very grateful for your time and for the evidence that you have given. Thank you very much.

Examination of Witness

Witness: **Shiraz Maher**, International Centre for the Study of Radicalisation, King's College London, gave evidence.

Q478 Michael Ellis: Thank you, Mr Maher, for coming, and I apologise that we are running a little bit later than scheduled. It is in part due to a Division in the House of Commons earlier.

Perhaps you could introduce yourself by saying a little bit about what you do and what you have done, very briefly.

Shiraz Maher: My name is Shiraz Maher. I am a Senior Fellow at the International Centre for the Study of Radicalisation. That is a research centre within the War Studies Department at King's College London. I am currently leading a team of several researchers, both in this country and abroad, who are researching the Syrian conflict.

Q479 Michael Ellis: Thank you very much. In your position as a Senior Research Fellow at the War Studies Department, King's College London, can you say whether you believe that foreign fighters, as they are described, pose a real threat to the United Kingdom?

Shiraz Maher: I believe the picture is still emerging at this moment in time, but I think we are seeing a critical mass of people from this country and more broadly from Europe who are going over to Syria and participating in the conflict there. I think as the conflict intensifies and endures, you will begin to see an increased level of threat in one form or another to both this country and the Continent.

Q480 Michael Ellis: This is very important, because I think you made an assessment in October that there were between 200 and 350 British-linked individuals who had fought in Syria since the war began. Has the number risen since then?

Shiraz Maher: We produced a comprehensive set of figures for what we believe to be the global level of foreign fighters going over to the conflict. That was on 17 December. We said the UK figure at the top end was 366, so it has not risen in any sort of meaningful way.

Q481 Michael Ellis: When you suggest that there is a potential danger from foreign fighters to the United Kingdom, in what way does that danger manifest itself or could it manifest itself, in your view?

Shiraz Maher: You need to consider a number of factors arising out of the foreign fighter experience of young individuals who go over to that country. One of the key things you are seeing—and I think it was touched upon in the previous session as well—is the repopulation, for want of a better phrase, of the international or global terrorist networks. I think much of that network has been broken down over the decade that followed 9/11 and the subsequent anti-terrorist campaigns, but you are seeing a rather permissive environment right now within Syria, which is allowing groups and organisations to essentially repopulate this network in an international fashion in newly ungoverned spaces, which would have been inconceivable just 24 months ago.

You are also going to more broadly then see a new generation of fighters emerge who have skills that one would rather they did not have, of course combat experience, the ability to put together crude and improvised explosive devices and just—

Q482 Michael Ellis: Do you mean that they might utilise those skills on returning to the United Kingdom?

Shiraz Maher: If you look at the pattern of terrorist activity in this country, again over much of the last decade, a number of plots that were otherwise put on to the streets failed for want of the fact that there was a lack of experience and ability within those cells to construct viable devices. Unfortunately, you will see people now gaining those skills in an environment that is, as I say, permissive to allow them to do so.

Q483 Michael Ellis: Your assessment is that there is more than 360 of those?

Shiraz Maher: We give both upper estimates and lower estimates based on of course our open source work on this, and so at the highest end we would say 366. I would say in all cases, we tend to counsel against that top-end figure. We believe it is a spread and I believe we gave a true figure of probably in the high 200s.

Q484 Mr Winnick: Do you accept that there are those who wish to go to Syria for the best of reasons, as they see it, because of the brutality of the Assad regime, but have not the slightest wish to inflict terror on their own country, namely Britain?

Shiraz Maher: You are seeing different categories of people going or different motivations that drive different individuals for wanting to go over there, but I think we also need to consider what happens once individuals are there. I do accept your point that a number of people have been motivated entirely and almost purely by humanitarian reasons. They have been appalled, repulsed by what they have seen as a humanitarian catastrophe unfolding in that country and they have gone over. That is not the case in every scenario. There are certainly young Britons who we talked to who have gone over from this country who are participating in that conflict who will say quite bluntly, for example, "We do not want to free Syria. We want to establish an Islamic state". That is a propaganda poster that has gone around recently and that is something we are hearing. I am not saying of course that this is applicable in every case, but I think you need to broaden out and examine more closely the various different intentions that might lead someone there.

I think then to assess what kind of risk or potential risk a returnee might pose to this country, there are two things to note. There has been an academic study in the past by Dr Thomas Hegghammer that looked at returning foreign fighters from previous conflicts. His estimate is that one in nine people return post-threat, so it certainly—

Mr Winnick: One in nine?

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Shiraz Maher: One in nine. We need to maybe examine that figure now in the context of Syria, because that applies to historical previous conflicts, and I would think that, for example, if you looked at the people who went to fight against the Soviet Union, the narrative and the discourse was quite different to what it is today. I would posit at least that the global jihadist narrative is today one that is a lot more confrontational towards the West.

That leads me to the final point I would just like to make on this, which is people who may well go into Syria for all the right reasons, as you say, who are motivated by purely humanitarian intentions, are not just of course fighting 24 hours a day on the front lines. They spend a lot of time being indoctrinated and going to study groups and so on. What we find from the ones we are talking to is certainly that if they had not embraced what you might describe as a global jihadist ideology before arriving in the country, they are certainly beginning to embrace that while they are out there, so that encompasses a lot of ideas that I think do make them certainly more dangerous than they would have been.

Q485 Mr Winnick: The Syrian conflict is being seen increasingly as a sectarian one between the two main brands of Islam. Those who want to go out, would they be influenced by an anti-Shia point of view, that Shia Muslims are not true Muslims, just as so many centuries ago the endless debates, and indeed terror, arising from the reformation in this country? Would that be a factor, that those going out are not only concerned and indeed disgusted by the brutality of the Assad regime, but also influenced that his brand of Muslim is not genuine?

Shiraz Maher: You are right to touch upon the sectarian element as an element within the conflict that has grown in prominence. It is certainly very evident in the discourse of a lot of young men who go to the country to fight that they are motivated to some extent by an anti-Shia element. To what extent that serves as the primary motivation for wanting to go is very difficult to assess. It is part of the package certainly of what they believe. That is one of the things that might be worth certainly considering for Government, is that one of the core strands of the Prevent strategy, for example, had been to explain elements of British foreign policy so as to damp down some of the tensions that were perceived to be around that issue that had motivated people to go abroad to Afghanistan or Iraq. That narrative has changed somewhat now. It is now more of an intra-Muslim rather than a civilisation discourse. It is an intra-Muslim tension that is fuelling a lot of the debate and anger in communities, so one thing that Parliament, the Prevent strategy and so on, should be looking into is how we begin to damp down issues surrounding these intra-Muslim tensions with Muslim stakeholders and community groups now, rather than, as I say, the old narrative, which was the West versus Islam or something like that.

Q486 Paul Flynn: This estimate you have of 350, how are they divided between the groups that they

affiliate with? How many of them would go to the al-Nusra Brigade, how many to the other insurgents and how many who would support the Government?

Shiraz Maher: From our analysis, by and large you could identify people joining most of the different fighting groups out there. I should stress that our work predominantly focuses on anti-government fighters, so I could not give an estimate on Shia fighters who may have gone to support the regime, or indeed even comment with any great authority on that.

But certainly looking at the anti-Government Sunni foreign fighters, they do tend to go over and I would say the single-largest grouping we have found is what might be called a kind of Islamist foreign legion. It is called Jaish al-Muhajireen wal Ansar. It operates just over the border, near the Turkish border, and it seems to be the single largest grouping where Westerners, a lot of men from Europe, a lot of men from this country, seem to go as a port of first call. But we have found people going to all of the organisations, and indeed some of those, as you say, are not quite linked with Jabhat al-Nusra, but ISIS, the Islamic State of Iraq and al-Sham, which is another one of the more hard-line al-Qaeda affiliated groups there.

Q487 Paul Flynn: Is there some essential recruiting organisation in the United Kingdom?

Shiraz Maher: I do not think there is a clear recruiting organisation. What we have found, and I think what is becoming increasingly important, is the role of social media in a lot of this. About 12 months ago, you had outliers, people who made original trips out to the country who established themselves there, who made links with local groups and who established essentially rat-runs from Syria into Turkey and backwards and forwards, allowing people to move between the two countries. They then used social media to flag up to their friends, to comrades back in this country to say, "Look, get out to Turkey and then you can make connections there and we can make it very easy for you to come". I do not think recruiting necessarily takes place on the streets of the UK, but social media makes that a moot point.

Q488 Paul Flynn: Could you give us some snapshot of what you believe the motivation of these people are? Most see the Syrian conflict as one in which there are massacres, terrible injustices on both sides, a huge amount of casualties. Do people see this as an idealistic cause and how?

Shiraz Maher: As I say, you get all kinds of motivations. We have touched upon the humanitarian angle, people motivated by humanitarian concerns as to what is unfolding there. I would also make the point that there is predominantly as well among young people a sense of the ummah consciousness, the idea that all Muslims around the world are united through some kind of fraternity of the faithful and that Muslims from one part of the world owe duty, allegiance and loyalty to other Muslims, particularly in times of oppression or injustice. I think that is a message that resonates particularly loudly in the context of Syria and in a less ambiguous way than it would have done with the war in Iraq or the war in Afghanistan. Everyone seems to be on the same page

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about the brutality of the Syrian regime. There is not a counter-narrative that is well-established, so as I say, in the minds of young people I think that idea of the ummah consciousness on the one hand, coupled with a sense that this conflict is less morally ambiguous, less legally contentious seems to make it a quite attractive proposition.

Q489 Paul Flynn: How firm are your figures for 200 to 250? Is this a realistic calculation?

Shiraz Maher: I believe our figures are realistic. They have been out there for some time. We have seen that they are broadly in line with estimates coming out of intelligence agencies both in this country and across the Continent. We published figures back in April of last year as well that were adopted by the EU Commission on Counter-terrorism, so I would say the figures have a degree of stability.

Q490 Dr Huppert: There have been some fascinating successes with de-radicalisation recently, people like Tommy Robinson and others were quite a striking example. Has there been much work to try to de-radicalise foreign fighters once they have returned to the UK or is it essentially too late at that point?

Shiraz Maher: I do not think we have as yet seen enough foreign fighters return and started to have them back in the UK for a long enough period to begin to assess even what the implications of their experience in Syria has meant, let alone to devise a de-radicalisation strategy. I do think that is something that Government will need to look at very closely, again through Prevent, through the Channel project in terms of recalibrating them to address some of the issues I mentioned, for example.

It is the intra-Muslim debate that is now taking place and seems to be adopting greater prominence in the minds of young people than, as I say, the old civilisational view that the West is somehow at war with Islam and they were locked in that. There is need for a de-radicalisation strategy that is recalibrated and tailored to the situation emerging from Syria. I think we do not know enough yet about it and so it is something that we need to look at.

Q491 Dr Huppert: In general, have de-radicalisation strategies been sufficiently successful? What more should be done, if anything?

Shiraz Maher: It is difficult to give an overview of de-radicalisation strategies as a whole across the world. There are a number of these schemes operating.

Dr Huppert: I meant particularly in the UK, sorry.

Shiraz Maher: I think in the UK there have been variable successes, and again it is very difficult to know quite where we are looking into this. It is community-based engagement strategies. I think you have seen a greater degree of capacity-building within the Muslim community; you have seen a greater degree of resilience from civil society, and as I say again within Muslim-specific contexts. With regards to prison de-radicalisation strategies, most people go in for a very long time, so we have not yet seen people emerge in a meaningful set of numbers where you could assess that. There is capacity within the

community, but because of Syria evolving in a different direction, it is not as contentious in the minds of people as the war in Iraq was, for example, or Afghanistan.

Q492 Dr Huppert: Things like control orders, which we were talking about earlier, or schedule 7 stops at ports, which are disproportionately Muslims coming back into the country, do you think that collection of things has led to radicalisation? I certainly hear from people who feel separated from society as a result. Do you think that has been a strong effect?

Shiraz Maher: That is certainly part of the narrative that is out there, and you mentioned control orders, TPIMs are now the sort of order of the day and they certainly play a role within the narrative. Quite what practical effect they are having is not an assessment I am qualified to make.

Q493 Dr Huppert: Then just lastly from me, if I can, Chair, overall on the subject of foreign fighters, what more do you think the Government ought to be doing?

Shiraz Maher: What should the Government do? It needs to look into three issues. It needs to explore ways to recalibrate the Prevent and Channel projects in order to intervene earlier on, before people leave this country and go to Syria, but also to deal with them on their return. That is an aspect we have never traditionally looked at. We have looked at people on the end of the spectrum who are moving towards violent extremism and seeking points of intervention, which is of course correct, but we have never dealt with this critical mass of numbers of people going abroad to participate in the conflict who we are then expecting to return to this country, at least not in the post-9/11 climate. That is something that needs to be given urgent consideration.

The aspect of the intra-Muslim debate, as I say, it is very difficult for Government. Even within Prevent traditionally, Government was keen to go in and explain aspects of foreign policy, explain aspects of domestic intelligence and security policy, where it felt it could get in and seek to address some of the heat and tension around those issues. As I say, now because it is becoming more of an intra-Muslim debate, Government needs to explore ways to work with Muslim community partners on the ground again to build capacity and address those issues and pull out tensions.

The last issue is certainly something that in our interactions with people from the police and in Government who work directly on these issues is that there is a sense at the moment of there being a rather crude set of tools available to stop people who want to go abroad before they go abroad for jihadist activity. There is stripping of the passports with prerogative powers and stuff, so we would favour looking towards encouraging Parliament to move in with some legislative powers rather than prerogatives, which could then provide judicial oversight, a clear procedure and structure in cases where passports need to be revoked, but essentially to give more powers to those on our borders to prevent people in the first place before they go. I think that should be the

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emphasis, preventative measures, so we are nipping the problem before it starts.

Q494 Michael Ellis: Thank you. Mr Maher, you mentioned very briefly Dr Hegghammer. The Committee is hearing from Dr Hegghammer and he will no doubt say something about his report on 11 February, but I think you said he has assessed that perhaps one in nine of those persons who have gone to fight in foreign lands and who return pose a threat to UK national security. Am I right that is what he says?

Shiraz Maher: Not UK national security, but it was a general study on—

Michael Ellis: Just pose a threat?

Shiraz Maher: To their home countries.

Q495 Michael Ellis: If we assess that with your assessment about the lower estimate of 200 foreign fighters, can one fairly extrapolate from that there is a threat to the United Kingdom from at least 15 or 20 people? Would that be an accurate assessment or is that too wide an assessment?

Shiraz Maher: Certainly based on historical precedent—I would resist looking into a crystal ball—I think one could make the case that certainly these people will be active in one form or another. At least if they are not immediately going to come back and pose a direct and immediate threat to the United Kingdom, they will nonetheless, I think to some extent, be building networks, will become charismatic leaders and figureheads in their own right, and of course have the kudos or cachet of having participated in this conflict, so for another generation of young men they will be seen as role models in one light or another.

Michael Ellis: Thank you. You published two influential studies, which I notice have been on counter-terrorism strategy, that have been applauded by others, including Lord Guthrie, the former Chief of the Defence Staff, who called it “remarkable” and Michael Gove, the Secretary of State for Education, called it “brilliant” so we are very grateful to you for coming in today and giving us your assessment.

Q496 Mr Winnick: How long do you feel that there will be this continued jihad offensive? Is it a matter

of the next 10, 20, 30 years? It has happened previously. How do you assess the situation?

Michael Ellis: Briefly, please.

Shiraz Maher: I can only be pessimistic about the situation in Syria right now. I regard it as very grave. The only point I would make is that in the last sort of week or so, there has been a lot of infighting among the various rebel groups, particularly in the northern parts of the country, and part of that has been a turn by local Syrians against foreign fighters, the so-called muhajireen. There has been a lot of chatter among a lot of them as to what their future might be in Syria, but I would say they are a very dedicated group and they are not easily dissuaded from the veracity of what they are doing, so I think they are going to remain out there for some time.

Q497 Mr Winnick: Communism in Europe to a large extent ended with the ending of the Soviet regime, which lasted in itself some 74 years; communism obviously continues, but basically it is no longer a threat in Europe. Would you say this would be the same span of years for the jihad offensive, a desire to bring about a world Muslim state and so on and so forth?

Shiraz Maher: To give a very quick answer, what I would say is I believe the threat was in great decline with the death of Osama bin Laden and then Anwar al-Awlaki. I believe the crisis in Syria, as it has evolved, has probably extended the jihadist threat to the region, the Middle East, and indeed more broadly to the West probably by two generations.

Q498 Michael Ellis: So you are quite pessimistic?

Shiraz Maher: Yes.

Mr Winnick: Most people are.

Michael Ellis: Sadly, on this subject there is scope for a great deal of pessimism.

Thank you very much for contributing to this Committee’s report on counter-terrorism. Thank you very much for coming in, Mr Maher.

Tuesday 28 January 2014

Members present:

Keith Vaz (Chair)

Ian Austin
Mr James Clappison
Michael Ellis
Paul Flynn
Lorraine Fullbrook

Dr Julian Huppert
Yasmin Qureshi
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: **Gilles de Kerchove**, EU Counter-Terrorism Co-ordinator, Council of the European Union, gave evidence.

Q499 Chair: *Bonjour.* Order. *Un moment, s'il vous plaît.* Could I call the Committee to order and I refer everyone present to the Register of Members' Interests, where the interests of Members of this Committee are noted? This is the Committee's continuing investigation—the inquiry into counter-terrorism—and we are delighted to have speaking to us from Brussels Gilles de Kerchove, the EU Counter-Terrorism Co-ordinator. Good afternoon, Mr Kerchove, and thank you very much for giving evidence to the Committee.

Gilles de Kerchove: Good afternoon, my pleasure.

Chair: Members of the Committee—you cannot see some of them at the moment, but you will when they ask their questions—have a number of questions to put to you about the situation regarding counter-terrorism. I do not know whether you have been following the deliberations of this Committee over the last four months, but we have come to you because we are very interested first of all in your role as the EU Counter-Terrorism Co-ordinator. How long has this role been in existence?

Gilles de Kerchove: The function was created after the Madrid bombings in 2004. I have a Dutch colleague, Gijs de Vries, who did the job for three years, and I was appointed by the former High Representative of Foreign Policy, Javier Solana, in September 2007, so I have been in the job for six years now.

Q500 Chair: How big is your support staff and your secretariat to support the very important work?

Gilles de Kerchove: It is very light. Since this week I have four advisers and two secretaries.

Q501 Chair: Now, what we are interested in, of course, is first of all the architecture of counter-terrorism. We know about the structures that exist in the United Kingdom. How do our structures fit into what you do? How do you relate to our Government? Through the Council of Ministers, presumably.

Gilles de Kerchove: The EU architecture, you mean?

Chair: Yes.

Gilles de Kerchove: Yes, I should start—and it is not rhetoric—by reminding you of the legal framework. As you know, after the entry into force of the Lisbon Treaty, internal security is now a shared competence between the member states and the European Union, but I used to say that even if it is a shared competence,

the actual division of what I would call labour, or power, if you want, remains nevertheless 90% member states and 10% European Union.

In the field of counter-terrorism, it is even more for member states. They are really in the driving seat, because part of the fight against terrorism is done by the intelligence services. As you probably know, in the Treaty of the European Union, Article 4, member states who negotiated the Lisbon Treaty added one sentence to a sentence which already said that the member states are primarily responsible for internal security, the following sentence was added: “Members states are solely responsible for national security”.

Chair: That is very helpful.

Gilles de Kerchove: Therefore, I would say that the European Union sees its work as purely complimentary to member states' prime responsibility in the fight against terrorism. So what we try to do—and what I myself try to do—is to determine where we can add value and support member states' efforts against terrorism.

Q502 Chair: Of course. Would you have met the head of our security services, the head of MI5, MI6 and GCHQ? Have you met these people?

Gilles de Kerchove: I have never met the head of GCHQ, nor the head of MI6, like the head of the French DGSE or the head of the German BND, but I have met Jonathan Evans in the past and the current head of MI5. It took three years to be invited, but since then I have been invited to the six-monthly meeting of what is called the CTG—the counter-terrorism group—which is the meeting of the heads of service, internal security service, MI5-type, every six months.

Q503 Chair: They meet with whom? Each other or somebody in the EU?

Gilles de Kerchove: Yes, the 28 heads of service, plus Norway and Switzerland, I think. The heads of service meet every six months at their level and they have other meetings I am not aware of. I am invited twice a year, to the six-monthly meeting, at the level of the heads of service.

Q504 Chair: How do you relate to the Lyons Group?

Gilles de Kerchove: The G8, you mean?

Chair: Yes, the G8. As you know, the G8 set up their own counter-terrorism organisation or support. Do you relate to them at all?

Gilles de Kerchove: It is much less operational. The Lyons Group was created many years ago in the context of the G8. It is more policy oriented: it is more the executive of the actual intelligence service who attends these meetings, but I have been invited once or twice to these meetings.

Q505 Chair: Thank you for that; that is very helpful. Let me start by asking you about one issue that is really causing us concern, which is the number of British citizens and EU citizens who are travelling to countries like Syria and involving themselves in terrorist activities. Do you have any figures to give the Committee about the number of EU citizens who have gone to Syria in order to help them there?

Gilles de Kerchove: It is difficult to have accurate figures for either EU citizens or EU residents who have been to Syria, are currently in Syria or are back from Syria. I know, for instance, the 700 French mentioned by the French President. When I discussed the issue with the Home Secretary in the UK, Theresa May, she mentioned low hundreds. You will understand what “low hundreds” mean—I suppose 200, 300 for the UK. I know for Belgium that we are above 200, so when you aggregate all these different figures, we are probably above 2,000.

Q506 Chair: We have been given some figures for Britain by Charles Farr—who is the head of the Home Office dealing with these issues—of about 366 British citizens and the countries that we have been told by the International Centre for the Study of Radicalism, a figure of France at 412, Germany 240, Belgium 296 and the Netherlands 152. Are those the countries in the EU—France, Britain, Germany, Belgium and the Netherlands—where their citizens travel to Syria? Those are the top countries, are they?

Gilles de Kerchove: Yes, you are right, these are the top countries. I would add Denmark and Sweden a bit. That is mainly the core group of countries.

Q507 Chair: Do we take it that the people going over are those from the diaspora from Syria—in other words, people who share the same religion as the people in Syria—or Syrian people who happen to be settled in these countries and then want to return? Are those the vast majority of people who are going?

Gilles de Kerchove: The vast majority, I would say, are from the first category that you mentioned. There are some converts and some Syrian-born, country nationals, but the bulk are, I think, Muslim residents or citizens in Europe.

Q508 Chair: What is the EU trying to do to stop them going?

Gilles de Kerchove: We have tried to raise the issue very early. I myself raised the issue a year ago in February. I was alerted by the high number of young Belgians going to Syria, and I came to the Justice and Home Affairs Council with a package of 22 measures in June last year. There were five main objectives. The first one was to try to understand the phenomenon

better by sharing as much information as possible. Who are these people? Why are they going there? Are there networks involved? Is there money coming from somewhere? What are the travel patterns? That is for those that are going there.

Q509 Chair: How many of those measures were adopted? How many of those measures were adopted by the Council? When you took those 22 measures, how many were adopted?

Gilles de Kerchove: The package of 22 was adopted—I am more than happy to share this document with your Committee—

Chair: Please.

Gilles de Kerchove:—and then I was asked in December to report and take stock of the implementation, but we are currently working on them. I will explain the four other main set of measures.

The second one is on prevent. How can we design a mechanism to stem the flow? This is, of course, a huge challenge. The third one is to reflect on whether we have an adequate legal framework to investigate and prosecute those who have joined the most radical groups.

The fourth set of measures is how can we maximise the existing mechanisms, like the Schengen Information System, or adopt new mechanisms, like passenger name records, to detect suspicious travel of unknown travellers, and finally, how can we engage collectively more with transit countries and mainly with Turkey?

So these are the set of five objectives, where we have several ideas, but we are currently in the process of trying to design a concrete project. Let me take one or two.

Chair: We will come to some of those projects in a second; I just want to bring other colleagues in. Thank you very much for that; we would be very grateful if you could send us the list of those 22 measures.

Q510 Mr Winnick: Do you think that those who are going to Syria to fight are doing so in the main because they believe that there is a blatant injustice arising from the violence and terrorism of the Assad regime, or do you think it is more a question of religious support—Sunnis against the religion of the Government in Syria?

Gilles de Kerchove: It is a very good question. I think they are both reasons. I think that was why many member states at the outset thought that the reason why people were going to Syria was because they were idealist people who wanted to help fellow Muslims pushing for democracy. What we see now more and more is the ideological dimension as a main driver for this process.

I would say the internet plays a very important role and satellite TV. The call, in many places in the Muslim world, for violent jihad, the al-Qaeda rhetoric—I would not say they are religiously driven; it is more driven by the al-Qaeda ideology.

Q511 Mr Winnick: It is more, as you say, religion than, say, the way in which over 70 years ago so many

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young men went to Spain to fight the fascists. Do you not draw a comparison there?

Gilles de Kerchove: Yes, indeed. Initially, I think some of them may have been—and still are—attracted by that feeling that it is their duty, like in the late 1930s, when people were going to join the international brigades against the fascists in Spain. I think it is more and more the ideology that plays a role.

Q512 Mr Winnick: What worries us in Britain, and no doubt in other European countries, about those who go to Syria to fight is that some of them may be so indoctrinated by terrorist elements—obvious terrorist elements, which we all know about—that they come back to our countries, Britain in this case, and inflict or try to inflict terrorist attacks on our people. Do you think there is any such danger?

Gilles de Kerchove: I fully share that concern. I think you have three elements. Those who are joining the fight will learn how to use a bomb, how to use a Kalashnikov or how to build a bomb. They will most likely be indoctrinated even more and so get more radical; and, not insignificantly, they will have friends from all over the world. It is a huge magnet for would-be jihadists coming from all over the world, so they will be connected to friends in Libya, Indonesia and everywhere from the Muslim world. Therefore, I think it is likely that among those returning to Europe, some will get back with bad feelings, so may even be directed by groups in Syria to mount an attack in Europe. It is a very legitimate concern. That is why we try to be prepared, to design mechanisms to assess—and I think this will be necessary for each and every returnee—whether this person poses a threat, and whether they need psychological support, because many have been confronted with a really ugly war, or social support to help them get back to normal life, to find a job or to retrain for that. Some will have to be sent to a court, because if they have joined ISIS or al-Nusra, they are violating the law. Some will have to be monitored discreetly, so we will have to design a response for each and every returnee.

Mr Winnick: Our security authorities should be somewhat on the alert in Britain, as in other countries, for those who return, as some could be a potential danger to our citizens.

Gilles de Kerchove: Very much so.

Mr Winnick: Thank you very much.

Q513 Paul Flynn: Last year, throughout the whole year, 26 people were arrested in Britain for travelling between Syria and the United Kingdom. Already this month, 16 people have been arrested. That means by the middle of next month there will be the same number as travelled throughout the entire period of last year. Is this accelerating trend happening in other countries in Europe?

Gilles de Kerchove: I must confess I do not have the recent figures on the returnees. What I have seen recently was, because of the fight between the Islamic Front on the one hand and the ISIS on the other one, the most radical group, and al-Nusra being a bit on the part of Islamic Front in northern Syria, some foreign fighters may be asked to get back home, because they

would be pushed aside by the less radical movement and that would have prompted a quicker return. To be honest, I do not have the most recent figures that show an increasing return. It may be that your services are detecting them better. That may be another explanation.

Q514 Paul Flynn: Can you give a clear picture of some kind of proportions of people that are going to the al-Nusra group and others going to the other groups there, the Government and the conventional opposition?

Gilles de Kerchove: I think this is more a question for the security services, but my understanding is that few foreign fighters are joining al-Nusra as such, because this group is much more demanding on those who can join. There is a vetting procedure, which is much more demanding, while ISIS, initially the Iraqi terrorist group, is much more open to any form of foreigners and they do not check their background and so on. I think the bulk of foreign fighters are more on the side of ISIS. How many are still with the Islamic Front or the Free Syrian army? I must say I do not know. My assessment is that, nevertheless, most of the foreign fighters are more on the side of the extremist group.

Q515 Paul Flynn: On the 16th of this month, two women were arrested carrying a large sum of money to Syria. Is this, again, another trend that is obvious throughout Europe—of women being used as couriers for large sums of money?

Gilles de Kerchove: I had not heard many cases of that sort, but that is probably the first time we have seen that women are going to Syria. We have not seen that trend in Somalia or Yemen or Afghanistan in the past.

Q516 Paul Flynn: This is my final question. Have you any theory on why this trend should be accelerating? Clearly, Syria is very much in the news, but the acceleration in the number of people travelling does seem to be alarming. Why is it happening?

Gilles de Kerchove: I think that there is objective criteria as to why we have such a high number. It is first because it is so easy to reach Syria, unlike the Sahel for instance. You may have even asked why we did not have more would-be jihadists going to Mali after the French intervention, because this was a Western army entering into a Muslim country. As your predecessor said, in Syria we have a fight among Sunnis and Shi'a, both Muslim. The easy way to enter Syria is one explanation. Another one is, if I may say so, the environment. Many of the would-be jihadists are urban people and the biotope is more similar in Syria than it is in the desert at 40 degrees. That is the second. In turn, the internet, social media, Facebook, Twitter play a huge role in this acceleration. We have a sort of dynamic. A lot of these young jihadists in a way are narcissists. They want their portrait with Kalashnikov. They put their picture on YouTube, Facebook, and they try to encourage colleagues, friends to join. There is a sort of internal dynamic here.

Paul Flynn: *Merci, Monsieur, je vous en prie.*

Gilles de Kerchove: *Merci.*

Q517 Lorraine Fullbrook: Good afternoon, Mr Kerchove. I would like to pick up on the point about the internet, social media and satellite TV. In your opinion, how big of a role is satellite TV, internet or social media playing in driving this ideological movement and the recruitment of foreign fighters? Secondly, how do we tackle that?

Gilles de Kerchove: That is a good question, if I may say so, but a very difficult one. I think most people agree that the internet is the critical recruitment factor, especially as I said it is no longer the web 1.0—the website. It is more the social media, the web 2.0—Facebook, Twitter. They played a significant role in indoctrination, recruitment, radicalisation, for sure. As for satellite TV, there is some television. If I can just mention one, al-Wesal—where you have preachers calling for violent jihad. It is interesting to see this last three years some of the Salafists are now advocating for violent jihad, not only the classic jihad. You may have seen in Cairo some months ago some very well known imams and clerics in the Muslim religion stated that it was a duty for the Muslims to join the fight. This, I think, plays a role, no doubt. That requires a response on our side at three levels. First, we have to monitor all this, and that is for the security services mainly. We have set up at Europol a common platform called Check the Web, where we have tried to pull some resource together, but it is still very modest. So the first one is monitoring. The second one is taking down illegal websites. That is a very difficult issue where, in your country, you have worked on for years. The third one, which is even more difficult, is: how can we ourselves use the internet to counter the narrative?

On the second one, the EU should look into ways we can improve the way we remove from internet illegal websites, because as you know, it is very sensitive, because it raises the question of the balance with freedom of speech. How can we improve referral mechanisms by which the users themselves let Google know that they have found some unacceptable websites, videos and pictures on the internet? This is a discussion that we have started with these big companies.

The last one—how we can counter the narrative?—is something on which you work, the Home Office works and RICU, inside the Home Office, works, but I am not convinced that the Government are well placed to do so. It is more about how we can reinforce the communities themselves—those who want to counter the narrative—to use more internet. Commissioner Malmström, the Commissioner for Home Affairs, will set up a forum to discuss with the big players, Google, Facebook and Twitter. Anything we can do to help them to be more professional in the way they use the internet, I think, would help. We can support some projects, translate some materials, but I am not convinced that Governments themselves are credible voices in these kinds of narrative, because it will be seen as biased. It is more about create an environment that is conducive to that sort of narrative.

Q518 Lorraine Fullbrook: Do you mean the narrative has to come from within the communities themselves?

Gilles de Kerchove: Indeed, it is much more credible. Of course, we could try to use former jihadists. We know that some of them have a lot to tell about their experiences. They maybe went to Syria with idealistic ideas and discovered quickly that it was not what they had in mind—that it is an ugly war, a lot of blood, that people are suffering, beheading, and so on. It would be interesting to see the jihadist himself explaining the terrible experience he went through. Again, it is very difficult to set up that sort of project. The Commission, in its recent communication on radicalisation and recruitment, said that it would be available with financial support to support those efforts in the communities themselves.

Lorraine Fullbrook: Thank you very much.

Chair: Before I come to Michael Ellis, Mr Winnick just wishes to correct one thing that he said, for the record: that those who went over to fight in Spain, he said, was 73 years ago, but he should have said 78 or 77 years ago. Just for the record, I am sure that does not apply to anyone sitting in this room, but we apologise if that has upset anyone who is watching this event.

Q519 Michael Ellis: Mr Kerchove, thank you very much for coming on. Moving on a little from what you have just been asked, are you familiar with the counter-terrorism infrastructure that has been established by the British Government and the mechanisms for dealing with counter-terrorism and anti-terrorism in the United Kingdom? If so, do you have any observations about it? Are you supportive, generally speaking, of the mechanisms that have been brought into operation here?

Gilles de Kerchove: It is not my role to assess the way member states exercise their main role of providing security for their citizens. Let me start by saying the UK is one of the member states helping me the most and, since the beginning of my function as EU Coordinator, I have always received outstanding support from the different Home Secretaries, from the Home Office, the FCO. It is really very helpful. When I go, for instance, to Pakistan and I try to develop a project there, it is always with the great support of the High Commissioner and all colleagues in the UK. That is for the record; I have to insist on this; it is very helpful.

I must say, I am very impressed by the real professionalism of Charles Farr and his team and the colleagues in the FCO. These are people who are doing their best to design the right policies. We have to acknowledge it is sometimes a difficult experience. I have been in many panels in the UK myself where there were discussions as to whether we should only address radicalisation leading to violence or we should start focusing a bit earlier on the ideology and radicalisation as such. This is a discussion that has taken place recently. How do we engage with the communities? There were criticisms of the policies of the previous Government and so on. No one has the magic bullet.

The experience gained in the UK has had some influence on the European Union and on other countries. For some time the French have been reluctant to enter into a real strategy for prevention;

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they are currently doing this. The EU CT strategy, for instance, is in a way replication of the four Ps of the CONTEST strategy: prevent, protect, pursue, prepare. Even if it is not my role to comment, I would say that the British Government is extremely active in Europe in helping us to design the right response.

Q520 Michael Ellis: You have referred to the fact that you do not think there is a magic bullet to deal with these issues. With the issue of radicalisation, particularly of young people, juxtaposed with the ideology issue that you have also referred to, do you think there is any more that member states of the European Union, particularly the United Kingdom, can do to address these inherent problems and factors that lead to the sorts of issues that you have been answering questions about this afternoon?

Gilles de Kerchove: Again, I don't want to single out anything special in the UK. I will say collectively we have to know that we have a consensus to invest more on prevention. As I said, the Commission is on board. They issued a communication last week, or two weeks ago, which is excellent. It is the first time that the European Commission has come with ideas and concrete proposals. We now have to act and really concretise these good ideas. They mentioned 10 different ideas and we support member states' efforts. The good news is that the Commission restated that it was available to mobilise EU money in support of member states' concrete projects. The idea to have a discussion with the big IT companies like Google and Facebook is something that, at the level of a member state, is nearly impossible to achieve. An EU forum with these companies, and possibly an EU-US discussion with these companies, will have much more weight and impact. It is about pooling resources together and sharing best practice that we will achieve.

On prevent, another initiative of the Commission that I support is the setting up of what is called the Radicalisation Awareness Network. It is a network of 700 practitioners that is excellent at sharing the successes and the failures. For instance, your Channel mechanism, which tries to help radicals get out of radical extremism, is something that is very useful to share with other member states. Of course, if the UK can keep the same commitments and help the Commission keep this issue high on the agenda, even better, but I do not have any specific weakness or failure to mention.

Michael Ellis: Thank you, that has been very helpful.

Q521 Yasmin Qureshi: I want to explore three different, albeit linked areas with you. Firstly, as you may be aware from reading some of the British newspapers some years ago, when we have had some very high-profile terrorist cases, with people being tried in the United Kingdom and in the USA, the intelligence or police officers investigating these crimes have said that most of these young men—and it was mostly young men—have said that their motive for getting involved in these things was not because they want to attack the Western way of life, which is what our media normally portrays as their reason, but because they believe that the Western countries have

been interfering with and invading a lot of Muslim countries over the last 20 to 30 years, such as Afghanistan, Iraq and others, where a lot of Muslims have died. That is their thinking or rationale for doing this. In light of that, has any attempt ever been made by various counter-terrorism units or the police to look at those issues, such as what could be a motive, and whether, despite the media narrative in our country—that it is all about the Western way of life—it actually seems to be about a very different reason?

Gilles de Kerchove: It is not for the police itself to assess whether the invasion of Iraq is a legitimate reason for violating the law. The police are there to apply the law, to investigate the crime. It is more for policymakers to understand the process that leads people to violence and design the right response. What we discussed about the counter narrative requires that we understand the main rhetoric in the ideology better. I would say that al-Qaeda is pretty good at exploiting all arguments. What we have to do is develop our own narrative and explain why it is not acceptable to use violence. This is something I tried, but there is room for serious improvement in the communication of the European Union with some member states.

If I take the issue of Syria, one of the difficulties we have is that we want Assad to be removed. By having this goal, we suggest to the would-be jihadists that it is a good idea that he be removed and some of them might think that it is a green light to go to Syria and fight. It is one of the weaknesses, I acknowledge that. The way we communicate and the way we have to develop this—calling it a narrative is not a good way to put it, because in a way we know that we have to challenge the narrative, but we have to develop our own narrative. On this we need to improve. I mentioned RICU in the past. Yours is probably one of the few Ministries of the Interior—if not the only one—that has a dedicated unit to work on communication, to get a sense of who the audience is, the way we have to address the audience and what the message is that we have to convey. I hope we can improve on this in the coming months, because this is indeed a very important challenge.

Q522 Yasmin Qureshi: Coming on from there—I was going to ask about Syria in my second question—would it be fair to say that Syria's situation is perhaps different from the other conflicts and the other people who have been charged with terrorist offences, because their motivation seems to be very different? The suggestion is that a lot of people going to Syria are going for humanitarian purposes—that is, to help and assist people who are injured. Most of those, of course, going to Syria are hopefully not going to be any danger to anyone. Would you accept the fact that a lot of people going to Syria are not going there to fight, but are going for humanitarian purposes, because that is what some of the people tell me? They say they are getting very upset that when they travel to Syria, wanting to go to Syria, everyone assumes that they are going to become terrorists or jihadists or that they are going for a battle. From your knowledge, is there any truth in that? Are they right or wrong?

Gilles de Kerchove: I am afraid I do not have precise figures. I cannot split between those who are going

there for humanitarian reasons and those who are among the fighters, or those who are fighting alongside the Free Syrian Army and those who are joining the more extremist groups. The information I get from most of the member states concerned in the security services are that the bulk are still joining the extremist groups. There are, of course, people who are going there for humanitarian reasons. One of the projects we should design—I think this is something they tried in the UK, as well—is to offer an alternative project to redirect the energy of those who want to be helpful and help Syria to do that through an humanitarian process, instead of fighting and using a Kalashnikov.

Q523 Chair: Sorry to interrupt you for one second, Monsieur Kerchove—it is difficult to have a dialogue in this way—but could say, in response to Miss Qureshi's question about on humanitarian support, whether it would help if individual EU countries took in more Syrian refugees on a humanitarian basis? Would this decrease the number of people wanting to go for jihad in Syria? Just a quick answer: yes or no?
Gilles de Kerchove: Could you repeat that? I do not completely understand. Could you could speak a bit louder?

Chair: Following on from what Miss Qureshi said, if the EU countries took in more Syrian refugees, would that decrease the number of Syrians going to fight jihad in Syria?

Gilles de Kerchove: No, I don't think so.

Chair: You don't think so. That is perfectly fine; thank you.

Yasmin Qureshi: I think you said in answer to one of my colleagues' previous questions about the internet and social media that there was a respected imam or somebody who had said that it was right to go off and fight. Not wanting to get into debate about this—if we are making declarations, I suppose I should declare: I am Muslim—I have to say that there are what I call tin-pot imams, or self-proclaimed ones, who say various types of things that are completely against Islam. Yet the really respected scholars, from the Imam of Mecca, or Medina, or the heads of scholars of the Egyptian schools and Turkish—the respected imams—all condemn this kind of behaviour and this kind of activity. Do you think that maybe their word, which is must more respected, should be the one that is out there in the media, so these young men and a few women who may be being radicalised by what I call the tin-pot ones, hear a counter-narrative from the proper ones, who say that this is completely wrong?

Chair: Thank you, Miss Qureshi. Sorry, Monsieur Kerchove, we are running out of time because we have a slot to talk to you in Brussels. Perhaps you could give a quick answer to Yasmin Qureshi and then we can have two more very quick questions.

Gilles de Kerchove: The answer is: the more we can encourage scholars to ask Muslims not to go to Syria, the better. I can share with the Committee if you want the declaration I mentioned earlier coming from Cairo, where well known scholars have had an impact. The more we can have alternatives to that goal, the better.

Chair: Excellent. We have two quick end questions from Paul Flynn and David Winnick.

Q524 Paul Flynn: Is the co-operation and cohesion that we have now between the EEAS, the Commission and the Council likely to be in danger of divisions resulting from the revelations by Edward Snowden that some of our allies are spying on some of our other allies?

Gilles de Kerchove: The main impact that I see from the revelations of Snowden is in the European Parliament. The competent committee of European Parliament dealing with justice and home affairs is now a bit reluctant to adopt an instrument that is very important for counter-terrorism, which is called the PNR—the passenger name record. The feeling is that we are building, step-by-step, a Big Brother society and therefore PNR adds another layer of collecting more data. I think what was revealed from the NSA has direct impact on this.

I do not see a problem between the external intelligence services and the Council. We have been working together very closely to define the EU response to the NSA leaks.

Q525 Mr Winnick: I agree with the reply you gave the Chair regarding Syrian refugees, but is it your view that EU countries should be taking in more refugees arising from the terrible circumstances—war and terror—in Syria?

Gilles de Kerchove: I do not know if I have the question right, but I think taking more refugees should be a decision on its own merit and not connected to counter-terrorism or the prevention of terrorism. It is a humanitarian question. It is up to the member states to decide to what extent they are ready to do so, but there is a lot that we are currently doing in the region, in Jordan, in Lebanon, in Turkey. The EU had already spent more than €2 billion in humanitarian assistance, but I think, just on a personal basis, that the more we can help, the better, indeed.

Q526 Chair: We are very near completion; we will have just two or three quick answers to these quick questions. The EU regulation 2580/2001 allows the freezing of assets of those who are involved in terrorism. I was very surprised to see that no accounts of anybody were frozen by the EU in the third quarter of 2013. Would you have some up-to-date figures as to how many people's bank accounts have been frozen? If you do not have them today, could you let us have these figures or tell us where to find them? If we know they are going off to perform jihad in Syria, presumably we would want to freeze their bank accounts. Would you be able to get us those figures, Monsieur?

Gilles de Kerchove: I will do my best, but I think the money in respect to Syria is not a real issue because it is very cheap to fly to Istanbul and go to the border. I don't think it is an issue of money.

Chair: No, but their bank accounts are still here. They do not take their bank accounts with them for jihad, do they? They still remain in Barclays or wherever.

Gilles de Kerchove: Indeed. I will do my best to try to get you those figures.

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Q527 Chair: Thank you. The second issue it would be very helpful if you could clear up for us and write to us about is that if somebody goes from the United Kingdom to Syria to be involved in jihad then returns to Istanbul and then goes to Paris, would we know that they had arrived in Paris?

Gilles de Kerchove: We have to distinguish whether we knew that he was in Syria and that information had been shared—so, whether he is a known traveller or an unknown traveller.

Chair: Yes, so if a British citizen travelling from Bolton—to pick a place—flying from Manchester airport, arriving in Istanbul, going to Syria, returning via Istanbul to France or Germany or Belgium, who would the British authorities need to tell that these people had travelled? Who in the EU would know?

Gilles de Kerchove: As soon as the UK uses the Schengen Information System, they can put in the SIS an alert that this person is known to be in Syria. If it is controlled at the external border of the European Union or in Paris, the UK will be informed that the person flagged in the SIS has been controlled in Paris and so we learn.

Chair: Sure, but that is only if they fly. If they travel by car from Istanbul—

Gilles de Kerchove: The same.

Chair:—and they cross the border with Greece and they go from Greece to Belgium, you think you would be able to track them.

Gilles de Kerchove: This is an issue that was discussed last week in Athens and that I raised myself. There is no systematic check of EU citizens, because they enjoy the right of free movement. I think we should use this a bit more systematically—so, even by car at the external border. If the person is checked against the SIS, the UK would be informed accordingly.

Chair: That is extremely helpful. We have been very enlightened by this evidence session and we are extremely grateful. We know you must be very busy. We thank you very much for the work that you do with the British Government in Brussels in support of our agenda. We thank you for what you have done joining us this afternoon. *Merci beaucoup. Au revoir, Monsieur Kerchove.*

Gilles de Kerchove: It was a pleasure. Thank you very much.

Chair: Thank you. That concludes that session. I will suspend the session for just two minutes while we remove the equipment and then we will welcome Jean-Paul Laborde.

Examination of Witness

Witness: **Jean-Paul Laborde**, UN Counter-Terrorism Committee Executive Directorate, gave evidence.

Q528 Chair: Mr Laborde, thank you very much for bearing with this Committee. We want to start, if we may, with a look at the issue of foreign fighters—you sat in for the last session, so you know the tenor of the Committee's questions. We will be as succinct as we can. If you could respond accordingly, that would be very helpful.

Is there an increase in the number of people going to Syria? We have looked at the figures: 366 from the United Kingdom. Is it a European problem or—you could look at this from the UN's point of view—is it something that is much wider? Are people from other countries in the Middle East travelling to Syria or are we just looking at it through the prism of Western Europe?

Jean-Paul Laborde: Mr Chairman, first of all, it is an honour to be with you today—all of you. I have something to say before I begin my remarks on your question. I would like to state for the record that I am here as a representative of the Counter-Terrorism Committee Executive Directorate, in my capacity as an official of the UN. I am here to provide an informal, unsworn oral briefing on the topic of this counter-terrorism policy. The CTC has agreed to voluntarily provide this briefing, and nothing related to the provision of this information briefing shall be considered as a waiver, express or implied, of any privilege or immunity of the United Nations.

Chair: Do not worry, Mr Laborde; we will not arrest you. You will be free to go.

Jean-Paul Laborde: That would be something interesting, because as you know, I used to be a judge in the Supreme Court.

Chair: We are on tenterhooks in case a peacekeeping force from the UN arrives to take over the Home Affairs Select Committee. You are safe with us.

Jean-Paul Laborde: This is not the point.

Chair: Yes, I understand. Perhaps you could just answer the question that I put to you.

Jean-Paul Laborde: The foreign fighters problem has increased to 11,000.

Chair: There are 11,000 foreign fighters in Syria?

Jean-Paul Laborde: Yes.

Q529 Chair: Which is the biggest country that provides these foreign fighters?

Jean-Paul Laborde: We do not really have full figures, but it is coming from, let us say, everywhere. The point was also made, by the way, by one of the honourable members of this committee—I also saw this in *The Times* last week—about going from 26 last year to, by this time in January, already 60 foreign fighters.

Chair: Yes, we know ours is about 366. We are interested in the facts and figures. Which is the country or area of the world that is providing most?

Jean-Paul Laborde: I do not know the other countries in the West. I know very well that in France that we have 200.

Q530 Chair: All right. You mentioned the figure of 11,000. Where do we base this figure on? Who has given us this figure?

Jean-Paul Laborde: This is something that has been raised by many intelligence services in the world—that is the point—but they did not give the breakdown.

Q531 Chair: All right; so it is about 11,000, but we cannot give a breakdown, we do not know where. Now, obviously your organisation is the United Nations—we all know it well; I have been to visit it, as I am sure others have. You are part of the Counter-Terrorism Committee Executive Directorate, so how big is your directorate and how do you fit into the architecture?

Jean-Paul Laborde: The Counter-Terrorism Committee was created after 9/11. It was chaired by Sir Jeremy Greenstock. Then in 2005 the directorate was established. We have 50 people who are experts. They are not part of the bureaucracy per se; they are prosecutors, intelligence officers, law enforcement and so on. What we do is we are the only body in the UN—and probably, in many instances, the world—with the mandate of assessing the counter-terrorism capacities of member states.

Q532 Chair: Going back to your figure of 11,000, which is of great interest to this Committee, bearing in mind that we think it is about 366 Britons, if I add up all the Western Europeans, it comes to about 1,000; therefore, 10,000 come from elsewhere. In the role that you have played over the last few years, is Syria now the theatre for jihad worldwide, whereas it used to be Somalia and perhaps to some extent Yemen? Is the focus now on Syria? Is that right or are there other areas where there are foreign fighters going in?

Jean-Paul Laborde: No, I do not think so. First off, Syria did not start with terrorism; Syria started with an insurgency. That was not, at the beginning, a terrorism place, let us say; it was a fight against the Government.

Chair: Yes, we know the history of Syria; I am just asking you a different question. I am asking you: is this now the centre?

Jean-Paul Laborde: No.

Chair: Which other countries would you identify as countries of interest to the United Nations?

Jean-Paul Laborde: Yemen.

Chair: All right; so foreign fighters are going to Yemen?

Jean-Paul Laborde: Yes.

Chair: Do we have a figure, as we do for Syria?

Jean-Paul Laborde: No, I have no figures for Yemen at the moment.

Chair: The international agencies have not made an assessment of Yemen?

Jean-Paul Laborde: No, you see the international agencies, as you say, are providing support to counter-terrorism. They are not an intelligence agency per se.

Q533 Chair: No, I understand. You very helpfully gave us facts, which the Parliament always likes. Facts: you said 11,000; so Yemen is a country of interest. Where else is a country of interest where foreign fighters from the UK and other countries might go and fight?

Jean-Paul Laborde: You have still, of course, Western Africa. You probably also have Pakistan. They are the main countries in which we have foreign fighters.

Q534 Chair: Is Syria the top of the league? If we had a champions league table of foreign fighters, is Syria at the top or another country?

Jean-Paul Laborde: I do not know.

Chair: All right.

Jean-Paul Laborde: The figures that I have got—the 11,000—I feel that we do not have the same type of figures as elsewhere.

Q535 Chair: Would you be able to help this Committee with the issue of freezing of assets by various Governments? Who would collect figures on the freezing of assets of those involved in terrorism? Would it be the UN?

Jean-Paul Laborde: No. This is an IMF problem.

Chair: Would the IMF would be able to provide this Committee with figures as to assets that have been frozen?

Jean-Paul Laborde: Yes, I think so.

Chair: Because the UN does not have them, or is it not part of your remit?

Jean-Paul Laborde: No, what we do, for example—I do not want to extend into very precise questions; what I want to say is that we are helping countries in asset freezing, that is for sure.

Q536 Chair: I just pose this question. Please do not take it personally, but there are 50 of you in the UN in this particular directorate. What exactly do you all do all day?

Jean-Paul Laborde: As I said, we assess the situation in all the countries of the world, in terms of counter-terrorism measures—that they are sufficient. Then—this is a new phase now—we are also providing support to countries in following up the reports. In terms of efficiency, I follow fully your point—“Well, what are these persons doing in the UN?” First, assessment, and then—now, because I felt it was not enough—following up on these assessments.

Q537 Chair: How would you follow up? I will give you example: two brothers, Akram and Mohamed Sehab, have been killed. British citizens were killed in Syria fighting for al-Qaeda last week—two British citizens. How would we be able to help the British Government before they went, when they were there or, indeed, if they had not been killed, if they came back? What is the UN’s role in all this?

Jean-Paul Laborde: The UN role is, on the basis of countering violent extremism, to help the countries in the de-radicalisation. That is what we do.

Chair: All right.

Jean-Paul Laborde: Not all the programmes that Gilles de Kerchove has mentioned. This is what we have to do; this is one of the roles of this body.

Q538 Chair: As far as the United Kingdom is concerned then what is the first cardinal principle of de-radicalisation that you might tell a Minister of the British Government that we can pursue?

Jean-Paul Laborde: There are three issues. The first one in my view is education. We have done a lot of things on the military and intelligence measures, but I feel that now we are ready to insist on all the programmes related to education and also, of course,

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the counter-narrative. Concerning the counter-narrative, I appreciate the last question of the last session. I would like to say that to be helped by the clerics who are moderate is one of the ways through which you can help these young people in correcting what they do in terms of extremism.

Chair: Excellent.

Q539 Michael Ellis: Thank you for coming in, Mr Laborde. There have been accusations against the British security service regarding alleged renditions and also pertaining to the Snowden revelations. Can you make an assessment from your own expertise as to whether these revelations have had any impact or would have been likely to have any impact on the UK's ability to assist at risk countries? For example, in building the rule of law and a human-rights compliant response to terrorist activity. In other words, do you think the Snowden leaks have been harmful to the national interests of member states of the European Union, including the United Kingdom?

Jean-Paul Laborde: I think that we are in an evolution process. We have to strike the balance between security and human rights. We have to know what we are fighting for. We are fighting for certain principles—universal principles, the universal charter and all of that. We have to strike this balance. The second point is that we have to be firm in the repudiation of terrorism. I think that we have to say, “No, we don't accept that because it is the first violation of human rights.” So the second thing is to strike the balance. Thirdly, perhaps we can find solutions to find the right way between what we need in terms of security and what we need in terms of protecting human rights. I do not think that the Snowden problem will change that too much. Perhaps what President Obama has done—this panel of experts—will help on this issue. The panel of experts will look into this matter. I am not sure that the Snowden issue will change this approach. It is a signal for us to strike the balance; I want to come back to this point.

Q540 Michael Ellis: I think we all appreciate that there is a need—and a difficult need—to have a balance between security and the right to know, if I can put it as simply as that. In this particular instance, are you prepared to go further and come down on one side or another, as far as what you think has happened in that particular case? Do you think there has been damage to national security interests or can you not say?

Jean-Paul Laborde: Well, I am not the one to evaluate the security interests of the UK. I am not in that position. You are a very old democracy; you know what to do in order to have this kind of balance.

Michael Ellis: Thank you very much; I will not press you further.

Q541 Mr Winnick: Is there any evidence whatsoever from the work that you undertake with your colleagues that terrorists have been assisted by the Snowden revelations?

Jean-Paul Laborde: No. There is no evidence of that.
Mr Winnick: There is no evidence of such a kind?

Jean-Paul Laborde: No, I do not think so—as far as I know, at least.

Q542 Mr Winnick: Well, you should know in your very senior position. Were you at all surprised by some of the revelations that the German Chancellor's mobile phone was—what is the term?—bugged and other intrusions? Were you at all surprised by this?

Jean-Paul Laborde: Yes, I was surprised. The point I would like to make—and to come back to something on this question—is this. In 2001, it appears that a lot of the information was already in the hands of the US Government concerning the attack, before the attack occurred. What I want to say is that to have too much information, from time to time, with all the information that the international intelligence agencies have they can be submerged by the information and then there is a problem of selecting the information that you have in hand. So, to listen to every person in the world, perhaps it is not something that could lead to good counter-terrorism work. You know what I mean? Of course we are surprised to have these types of things, but in the end I feel that in counter-terrorism policy, probably at a certain point we might wish to be more selective on what we do.

Q543 Mr Winnick: Do you think that if President Obama's suggested reforms and changes take place—there may be a question mark about—more or less along the lines that he set out very recently and if intelligence gathering is much more restricted than it has been, particularly the National Security Agency and the rest, and the relationship with GCHQ here, that would give more credibility to the intelligence agencies?

Jean-Paul Laborde: Let us see what the opinions are of the panel. I am not in the National Security Agency. The gathering of intelligence—I did not say it should be restricted; it should be more selective. Perhaps there are some restrictions that have to be absorbed, taken in place.

Q544 Paul Flynn: The head of Scotland Yard's counter-terrorism command has said of those who go to Syria from Britain that they either get killed or they get radicalised. Would you agree with this? Are countries justified in taking measures to restrict the freedom of those who return and treat them as potential terrorists?

Jean-Paul Laborde: Well, it is a very serious issue. When they go there and when they come back, we never know what they will do, so we have to speak with them, we have to look at what they have done, and we have to probably re-educate them and, of course, monitor all of them. That is a really serious issue. The point is that when they go there, even if they are not radicalised, they go into the training and this training is a training of fighters. When they come back, let us see what they have, because probably at the very beginning they are not going there with this intention, but when they are there and they come back, they are absolutely dangerous, or can be dangerous.

Q545 Paul Flynn: Do your responsibilities and the responsibilities of the United Nations include the job

of trying to build confidence and counteract this gulf of suspicion between the Western Christian world and the Eastern Muslim world, which is probably fuelled by the imbalance and the asymmetry of the weapons that they each have? Do you think that the use of drones—hugely sophisticated weapons that cannot be matched by the other side—is itself a cause of increasing terrorism, because terrorists, and those in that position, potential terrorists, feel themselves impotent to defend themselves and their communities against drones and other sophisticated equipment?

Jean-Paul Laborde: I think that the use of military means, whatever the means are, is not at all sufficient for reducing the threat of terrorism—the use of drones, the use of whatever type of means. We should know, if it were the case, that the reduction would have happened up to now, because the military and intelligence means have been used up to now, and we still have the problem of terrorism in front of us. I feel that we have a comprehensive policy—this is where the role of UN is important—of prevention of terrorism, de-radicalisation. Of course, there is also the natural means, like law enforcement and prosecution, which gives people the right to express themselves.

Q546 Paul Flynn: This is my final question. We have heard alarming stories about the increase in the number of volunteers—potential terrorists—going to Syria. Should we be very worried about it if that acceleration is going on, and what can we do to increase the confidence of young Muslims to convince them to be de-radicalised and that there is not this gulf between the two communities of west and east?

Jean-Paul Laborde: It seems that there are two issues there. There is, first, the issue of western and eastern countries. In answer to this question, the UN is a place in which we can at least have a dialogue among these countries. That is probably what we can do. Also, I can see in my committee that the dialogue is really good, on good practices—for example, what the UN has done in the past in terms of the work with the charities and all that. That is a good dialogue there. As I said, the second point is still the operation of prevention in our countries. We are also about to help them in prevention in their countries, with their own means. I feel that it is also something that we have to take into consideration. For example, the programmes of de-radicalisation are extremely huge in Pakistan. The Muslim countries have made a lot of effort in order to de-radicalise their people. I was in Islamabad in October, and the Government is ready to do this job very seriously and is doing it. We are even learning from them on this issue of what to do with the young people. I don't say that we can succeed, but at least we have to try and then they can give some lessons to us on that.

Q547 Yasmin Qureshi: I have a couple of questions. In the organisation that you work, and as the Chair asked earlier about what work do you do, can you give us an example of a specific programme that your organisation has carried out in different countries that would try to deal with the issue of terrorism as you see it?

Jean-Paul Laborde: I will just give you an example. In South Asia we have a programme of co-operation among all the countries of SAARC, which means, India, Pakistan, Nepal, Bhutan, Maldives and Bangladesh. We put all these countries together at the professional level, not at the policy level. We put together, for example, the prosecutors, judges, law enforcement agencies, intelligence agencies, and then they meet on a regular basis. They meet and they start to discuss their own issues—for example, the difficulty they have to give evidence in court, the issue of intelligence information transformed into evidence in a court, and so on. There are many programmes like that in the world. My intention is to have also a network of judges of supreme courts to see how they interpret the definition of terrorism in their own countries, and to see how they can match these definitions.

Yasmin Qureshi: Effectively you are talking about how to strengthen the law enforcement and the prosecutorial system of trying to get convictions.

Jean-Paul Laborde: Yes.

Yasmin Qureshi: What I was asking about is whether there is any sort of project on a non-legal basis.

Jean-Paul Laborde: As I said, we assess and we follow up. It means that we are using—and this is the benefit of this body—the capacities of many agencies of the UN, and not only of the UN, but also, for example in Nepal and so on, for these programmes we are using UNDP and UNESCO. UNESCO is very involved in these type of issues related to education. There is no need to duplicate the programmes that are already in place by UNESCO, but of course when we detect there is a need for that, then we ask UNESCO to increase the efforts in this area.

Q548 Yasmin Qureshi: I have a final set of questions, on the link between terrorism and drug smuggling. There is information out there—or certainly information given to us—that in parts of Northern and Western Africa there seems to be a degree of crossover between drug smuggling and terrorism. Also, we sometimes read and hear that in some countries—in Pakistan, for example, in the north-west frontier, and they have those tribal areas, or the FATA as they are called—the Pakistani Taliban, or the al-Qaeda Taliban or the Afghani Taliban, or various other terrorist groups are operating. Yet quite a lot of people say—senior people in Pakistan—that not all of those people operating are actually jihadists or al-Qaeda, but criminal gangs who are carrying out a lot of these types of things to frighten people, so that they can carry on doing all their criminal dealings of the drugs and arms trade. Then there is this suggestion in North and Western Africa that this is happening. What sort of things is the UN doing, if anything, to try to deal with these types of problems?

Jean-Paul Laborde: In terms of a link, obviously there are what I call “objective links” between the drugs and terrorism. It means, for example, that in Afghanistan in the same region in which you have a growth of the opium cultivation, you will get also the same growth of insurgency. I have some facts for you. In 2013, for example, 89% of the total opium cultivation in Afghanistan took place in the southern

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and western region. Then in this region you have the most important insurgency. That is what I can see. It does not mean that terrorist organisations are the same as the organised criminal groups dealing with drugs, but they combine their efforts. The same in Western Africa. Who could say, even 20 years ago when I started to work in this region, that terrorism and organised crime would happen? It starts with this route of drugs, going up from the Gulf of Guinea up to Europe. Of course, in between they match with terrorist organisations. For example, in Cameroon now, we had this kidnapping for ransom. The first group who started to kidnap for ransom was an organised criminal group and they sold the person that they kidnapped to Boko Haram. You can see there is an objective alliance, I would like to say, between them. What we do at the UN—first of all, we do the mapping. We have no pretention and we should not have any to replace member states that have the big means in terms of military and intelligence and law enforcement. We just alert, support the countries, and try to help them to prevent it.

Q549 Lorraine Fullbrook: Mr Laborde, I would like to ask you about the monitoring and assessment of counter-terrorism capabilities. Specifically, the last global survey produced by the UN's Counter-Terrorism Committee was published in 2011. Much of the information gathering and the assessment of that work was actually done prior to the Arab Spring. What impact has the Arab Spring had on the implementation of UN resolutions intended for counter-terrorism?

Jean-Paul Laborde: The impact is that of course we have to start again from basic needs from member states concerning, for example, the states—I was thinking of Libya—that need to be supported. That is the first one. It means support has to be given to the countries that are in need, and there is a need there. The assessment also is that, coming from Libya also, you had a lot of freedom of movement for terrorists going here and there from the beginning of the Arab Spring—from east to west and west to east of Africa. So the flow between, for example, the Central Africa and Western Africa is huge now. There is no control any more.

Lorraine Fullbrook: But how has that affected the UN's implementations of the counter-terrorism capabilities?

Jean-Paul Laborde: We have to work more on these regions, that is for sure. This is a new area for us. Western Africa—we have always worked on that, but the point is that the increase of the demand is just immense, and it is not affecting too much our body because we are, as I say, assessing it and trying to put the other agencies together. For example, if I speak about UNDP or UNESCO, they are very much affected by that, because it is a lot of work to do in addition to what they have to do, for sure.

Q550 Lorraine Fullbrook: Just one point following Yasmin Qureshi's question, the Committee visited Colombia on our drugs investigation, and one of the issues that came out of both Colombia and the United States was the drugs movement for narco-terrorism

coming out of mainly Venezuela into West Africa, then into Portugal and then throughout the European Union. Do you see that increasing more as there is a lobby for the de-criminalisation of drugs?

Jean-Paul Laborde: I don't see the relation there. Do you see a relation between the two?

Lorraine Fullbrook: Yes.

Jean-Paul Laborde: A call for decriminalisation, if you call it that. The trafficking of drugs have never been the subject matter. It was the conception of drugs that was the issue, I think.

Lorraine Fullbrook: I just wondered if Portugal having decriminalised class A drugs and the movement from West Africa to Portugal specifically, and then on to other EU countries, had been affected by any of the lobbies? For example, in the United States we have states now decriminalising marijuana for example.

Jean-Paul Laborde: The use or the conception?

Lorraine Fullbrook: The use of, yes.

Jean-Paul Laborde: Not the trafficking; that is the issue. The trafficking of drugs—for example, if you go back to Afghanistan—is a billion dollars. There is a lot of capacity of these criminal organisations in doing more on that. It is not only cultivation and consumption; the point is the trafficking. The trafficking—I don't see there is a diminution of the will of member states to do that.

Q551 Chair: There is just a final question from me. In the evidence that we have taken so far from many different agencies and organisations, we have now come across a plethora of organisations, with numerous organisations and officials working all over the world on counter-terrorism. There is yourself in the UN, we have heard today from the EU, we know that Europol has a function to deal with these issues. We know that Interpol was involved in the storming of the factories in Algeria. We know the Lyons Group is in existence. Is it not time for one organisation dealing with counter-terrorism to try and come to terms with this very difficult subject? After all, the terrorists do not have five or six different bureaucratic organisations; they decide to blow something up and they set about blowing it up. We seem to have a lot of people producing a lot of papers and a lot of analysis, but no one co-ordinating body. Is it time for such a body, now that this is going to be with us for ever?

Jean-Paul Laborde: That is the best question that has probably been posed, if I may say so. The answer is what? Do you think that at the national level—since I was a judge in my country—we do not have this problem of co-ordination? I feel that probably my body is in the position of having this type of—I do not say co-ordination, but at least to put people together. That is the issue.

Chair: Somehow, they have to sit in the room, because after all you are the United Nations and therefore—

Jean-Paul Laborde: No, not only that, Mr Chairman.

Chair—you represent the good guys as well as some of the bad guys.

Jean-Paul Laborde: That is—

Chair: You have to do them all.

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Jean-Paul Laborde: This is a judgment I leave to you. What I want to say is that this body of the Security Council has a capacity to gather the energies of all these agencies that you just mentioned. Interpol comes with us; Europol comes with us. Many of the—

Chair: The Lyons Group?

Jean-Paul Laborde: Whatever group; if we need to tap on one of these organisations to assess the situation and—this is my ambition—to have a real follow-up, impact and, at the end, evaluation—

Chair: So basically you think it is a good idea, but you do not know how it might be put into effect.

Jean-Paul Laborde: No, we put that in place.

Chair: You think we have it?

Jean-Paul Laborde: Yes.

Chair: With you at the Security Council?

Jean-Paul Laborde: First of all we are already doing that. For example, when there is, say, asset freezing—we have had questions about that—the IMF come with me. They come.

Q552 Chair: Can you give us the figures on asset freezing by the United Nations?

Jean-Paul Laborde: No.

Chair: Does the United Nations have figures?

Jean-Paul Laborde: This is exactly the division of labour. IMF has a role in that. This is a business, okay? So what I have to do, when I see there is a point of asset freezing that is difficult and so on, then I have to bring them with me in the assessment of the countries. I have to do the same even with the organisation that is in front of you—the IMO—which works with us.

Chair: Mr Laborde, you have been extremely helpful. If there is other information you think would be helpful to the Committee in our deliberations—we had not come across your role until our inquiry began; we are delighted to have met you and very pleased to hear your evidence—we would be very pleased to receive it. We are very grateful, thank you.

Jean-Paul Laborde: I will follow up on the 11,000 for you.

Chair: Thank you very much. *Merci*.

Tuesday 11 February 2014

Members present:

Keith Vaz (Chair)

Ian Austin
Mr James Clappison
Michael Ellis
Paul Flynn

Lorraine Fullbrook
Dr Julian Huppert
Mark Reckless
David Winnick

In the absence of the Chair, Mr Clappison took the Chair

Examination of Witness

Witness: Dr Thomas Hegghammer, Director of Terrorism Research at The Norwegian Defence Research Establishment (FFI), gave evidence

Q554 Chair: I call the Committee to order and refer all those present to the Register of Members' interests, where the interests of members of this Committee are registered.

Could I welcome, coming to us from Oslo, Dr Thomas Hegghammer, the Director of Terrorism Research at the FFI? Thank you very much for joining us, Dr Hegghammer. This is a further session in the Committee's long inquiry into counter-terrorism. We are most grateful to you for joining us to share with us some of your extensive experience in this matter.

Let me start with the issue of foreign fighters, which I know is an interest of yours, and the recent report that Abu Suleiman al-Britani—which is a *nom de guerre*—became the first British citizen to blow up explosives, the first suicide bomber, in Syria. It concerns the prison at Aleppo where, as a result of what he did, a number of prisoners were freed. He has become something of a martyr among the jihadists. We have seen this for the first time in Britain. Is this something that is a common occurrence in Syria now, with foreign fighters going out there to participate in what is going on?

Dr Hegghammer: First of all, thank you very much for having me.

Yes, foreign fighters have been present in the Syrian theatre for a long time. They have been active in combat operations and taking part in suicide operations for some time. They are present in unprecedented numbers. No other conflict in the Muslim world in recent history has attracted the same number that we are now seeing in Syria. The best estimates we have speak of 2,000 Europeans in Syria, which I believe is more than the total number of European foreign fighters in all previous conflict zones combined.

Q555 Chair: If we look at what happened, for example, in Afghanistan and Iraq, you are saying that the figure of 2,000 is a much, much larger figure than in previous conflicts.

Dr Hegghammer: Yes, absolutely. I believe that in no previous conflict, with the possible exception of Afghanistan in the 1980s, have we had more than a couple of hundred or a few hundred Europeans in a given conflict theatre. Now we have 10 times that.

Q556 Chair: Where is Britain on the list in terms of the numbers of jihadists who go out? In previous evidence an estimate has been put to us of about 366 to 400. Is that an accurate figure as far as you are concerned? Are we top of the list, or is it France or Germany?

Dr Hegghammer: I think you are higher on the list in terms of the absolute size of the contingents, but you are a big country, so when you control for the size of the population, you are probably in the middle of the list of European countries. Some of the smaller countries, like Belgium or Denmark, are contributing more per thousand inhabitants than Britain does, but the size of your contingent is substantial and is among the largest in Europe.

Q557 Chair: You have said that one in nine foreign fighters will return to their country of origin to carry out a terrorist attack. That is a very large number. If you look at the figure of 400, that means 40 could come back and be involved in attacks on British citizens on British soil. That is a very serious claim. What do you base your claim on? What kind of activities do you think these British citizens are going to undertake once they return to the United Kingdom.

Dr Hegghammer: I should explain some of the background for that particular estimate. It is based on a study that I did last year, which was published in a political science journal, in which I tried to estimate the number of foreign fighters from the west who had gone out to conflicts around the Muslim world in 1990 and then tried to count the number of people involved in plots in the west who had had foreign fighter experience. I found that on average, across conflicts and across contingents, at most one in nine returned to attack. I stressed in that article that it is probably a high estimate, that the real rate is probably lower—somewhere around one in 15 or one in 20.

Q558 Chair: But is not the key thing to stop them going in the first place? Do you think that the British security services and the police are doing enough? Because if you put the figure at one in nine, of course it is too late when they come back. Should we have a better system of monitoring who leaves the United Kingdom, rather than the system we have at the moment, which is that there are no exit checks at airports, so we do not really know they have gone?

Dr Hegghammer: The thing about the average that I have put forward is that it is just that: is an average. The challenge is that the return rate—the blow-back rate if you will—varies enormously between conflicts. Some foreign fighter destinations have produced almost no plots in the west, whereas others have produced a substantial number. For example, Afghanistan, or the AfPak region, has a relatively high return rate. In fact, as many as three-quarters of the foreign fighters involved in plots in Europe have their background from AfPak, so the point is we cannot extrapolate this ratio to Syria. The blow-back from Syria could be much, much lower than one in nine; it could also be even higher.

Q559 Chair: Sure, but is enough being done to stop them going in the first place?

Dr Hegghammer: The problem is that there is only so much that the departure country can do in this situation. There are very powerful drivers motivating people to go, not least the conflict itself and the images coming out of it, and then at the receiving end of the trajectory of the foreign fighter, you have the porous borders—the fact that it is very easy to get into Syria because the rebels control the inside of the Syrian-Turkish border.¹ That is an unusual situation. In most foreign fighter destinations, the borders are controlled, but in this case the rebels control the border. There is only one police force left to police the Turkish border and it is overwhelmed.

Q560 Chair: That brings me to my final point, which is on Turkey and your statement that transit countries such as Turkey should do their best to police their borders and they should share intelligence on suspected foreign fighters with the departure countries, if we can call them that. This view that we are experiencing what people have called ‘easyJet terrorism’, where people can jump on a flight at Luton and go to Istanbul very easily by the airlines there, and then go from Turkey right to the border of Syria and get in there very easily. Should Turkey be doing much more in sharing information with the United Kingdom and other countries, since Istanbul looks like something of a hub for this kind of transit activity?

Dr Hegghammer: Yes. I do not think it is a controversial statement to say that they should do that; the problem is assessing whether they actually are. I personally do not know enough about the situation on the ground to say whether they are doing everything they can.

There may be a role for external partners here, too, in helping Turkey to police the border. One suggestion would be for external partners to help Turkey build something as simple as a fence along the border. This is what Saudi Arabia did on its border with Iraq at the height of the war in Iraq, around 2004 and 2005, precisely to stop foreign fighters from entering. This is quite a practical, simple solution that the international community can help with.

¹ Note by witness: This phrase can be understood to mean that rebels control the Turkish side of the border, which they obviously don't.

Then, as I mentioned in that statement, we should do everything we can to promote intelligence co-operation with the Turkish authorities, so that we know who is going in and out and as much as we can about what they do inside.

Chair: Thank you.

(Q560a) Mr Winnick: Recognising the acute and continuing danger of this Islamist terrorism—you know of course of the horrors and atrocities committed in our country, the 7/7 bombings, as well, of course as 9/11 and many others crimes and atrocities carried out by the terrorists—I would like to ask you this question. Some five years ago, a relative of mine in the closing stages of his life, in his 90s, was entertained by the Leader of the House of Lords, following having been given citizenship by Spain for what he contributed in person during the Spanish Civil War, when he put his life on the line because he believed it was necessary, as did others who volunteered to fight fascism before it became fashionable to do so.

Would you see any possible similarity to my distant relative—like so many others like him did and who died in Spain and of course others, like George Orwell, who survived—and what is happening now regarding foreign fighters in Syria? Do you see any similarity at all?

Dr Hegghammer: Yes. The phenomena are related. This is about volunteering for someone else's war, based on ideas; it is just that these ideas happen to be slightly different and that the people and networks involved also do other things. The difference between the Islamist foreign fighter phenomenon today and a war like the Spanish Civil War is that today there are many cases of people moving on from this foreign fighter activity to international terrorism involving attacks against civilians in western cities. You did not have that at the time. There was not this sort of frequent and smooth transition from guerrilla warfare within the conflict at stake to more transnational terrorist operations. Whatever we think about the moral justification behind the initial involvement in the war, I think the reality that a substantial number of people move on to international terrorism from this activity should merit certain policy measures to prevent just that kind of violence.

Mr Winnick: Thank you. I have no further questions.

Q561 Ian Austin: What proportion of foreign fighters do you think are likely to return to the west from Syria?

Dr Hegghammer: I do not know, is the short answer. As I said, the one-in-nine figure cannot be extrapolated to the case of Syria because it is an average. Specific cases can be much lower or even higher, as we can see in the history of foreign fighter contingents.

The problem of course is that the total number of Europeans in Syria today is so large that even if the ratio of return is very low, we are still talking about a substantial absolute number of plots. I personally think it is extremely unlikely that we will not see at least some plots in Europe involving Syria veterans. I think there is one crucial factor that determines whether this becomes a low blow-back or a high

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blow-back destination, and that is the strategy adopted by organisations on the ground in Syria. Foreign fighter destinations produce many more plots if there is a group in the theatre that adopts a strategy of systematically targeting the west. That is what we have had in Afghanistan since the mid-1990s and, to some extent, what we have had in Yemen since 2009. Those two destinations have by far the highest return rate of any foreign fighter destination.

Other destinations that do not have groups with that type of strategy produce much lower return rates. Today in Syria there is no group that has such a strategy, so if this situation continues, I suspect that the blow-back rate will be relatively low, but it could change. The war will go on for a long time and we cannot exclude the possibility that one of the groups or a faction within it might experiment with or adopt a ‘west-first’ targeting strategy.

Q562 Ian Austin: In relation to the answer you gave to my colleague, Mr Winnick, a moment ago, the big difference between the people who went to fight in Spain and the people who are going to fight in Syria is that the people who went to fight in Spain were going to defend a democratic Government and you cannot argue that that is the case in Syria. I would suggest that it is completely wrong to be blind to the motivations and to suggest there is some sort of equivalence. Should not we in the west be much more vigorous about promoting values like democracy, equality, freedom, fairness and tolerance to young people who grow up in the west, in the hope that they might have a greater attachment to those values and the values of the west and therefore not want to go and involve themselves in these sorts of wars abroad?

Dr Hegghammer: It is hard to disagree with that, and I agree completely, but the question is: how exactly do we do that, and what do we do when people resist and reject the value in that message or programme?

Chair: Thank you.

Q563 Dr Huppert: Just to amplify the question from my colleague, do you have any evidence to suggest that when countries implement measures that are seen to be discriminatory—disproportionate stops and searches, what used to be called control orders, things of that sort—it makes it more likely that people will engage in conflict?

Dr Hegghammer: No, I cannot say that we have solid evidence of that. There might be anecdotal evidence or we might make the case for that in certain situations, but the problem is that it is always very difficult to disentangle the effect of particular variables—particular factors like that—from other things that are going on in that society at the same time.

If you study the profiles and backgrounds of people who become militants, you will find some people who will report becoming motivated partly due to harassment or that kind of thing, but you will also find lots of people who do not—who do what they do for other reasons—so we just do not know, is the short answer to that.

Q564 Michael Ellis: Dr Hegghammer, I notice that you said in answer to a question put by one of my colleagues that you thought it would be extremely unlikely—I think those were your words—that we will not see some sort of plots against the UK from these British citizens who have been fighting abroad. Is that correct? Am I characterising what you said correctly?

Dr Hegghammer: Yes. I think I originally said in Europe, but I am willing to extend it to the UK, because in fact you may already have had such a plot, last autumn. The investigation is still ongoing, but there is some indication that it did involve a Syria veteran

Q565 Michael Ellis: So there are some indications that a plot has already occurred, but can I just pinpoint you to the UK as opposed to Europe generally? I think you said earlier in your remarks that the UK is such a large country, with such wide-ranging interests, that it is particularly prone to this. Is the strategy of systematically targeting the west one that you see as a real and present danger to the UK?

Dr Hegghammer: I am saying that right now the organisations fighting in Syria do not have such a strategy. From all that I can see, they are not systematically trying to mount operations in the west. However, if they do so in the future, they will be able to mount serious plots in the west. It is reasonable to think that the UK would be quite high up on their targeting list, given their history of targeting. I would add that even though we do not see such a strategy at the moment, there have been indications or signs in the past six months that are quite worrying.

Q566 Michael Ellis: So are saying that in your view there is a serious danger?

Dr Hegghammer: Yes², I am saying that at the moment we do not see any signs of a concerted effort by the groups on the ground in Syria to target the west, but there have been some indications in the past six months that such a change might happen, and I am saying “might”. Those indications include statements and threats by foreign fighters in Syria—including British ones—and reports conveyed by intelligence officials, like James Clapper in the US, that dominant groups in Syria have now established training camps dedicated to the grooming of operatives in the west. We lack details on the precise strategic motivation behind it but it is certainly not—

Q567 Michael Ellis: If they were to strategically focus on the UK, do you feel that they might find it quite easy to launch such an attack? You have talked about developments in the last six months, and my final question to you is: can you put some quantifiable measure, some percentile, on the likelihood of them making such a move?

Dr Hegghammer: I hesitate to quantify this, because it depends on so many variables, not least how long the war lasts. I would say that if the war goes on for another five years, I would expect that a group—or

² Note by witness: I don’t recall saying yes here. I remember thinking that I disagree with the questioner’s use of the term “serious danger”, and that I should correct it.

one faction of a group at least—will try to adopt such a strategy at some point.

Michael Ellis: Thank you.

Dr Hegghammer: Can I just add this? On this issue of organised strategies compared with more scattered self-started plots, I think it is a crucial distinction. Right now, there is a lot of focus on the threat from Syria and I think there is a danger of confirmation bias—that small incidents happening in Europe are seen as something strategic and that we over-react on the basis of that.

Chair: Thank you.

Q568 Lorraine Fullbrook: Dr Hegghammer, there are some suggestions that foreign fighters in Syria are fighting a sectarian war rather than a war against the west and are therefore less dangerous than those who travel to Afghanistan and Iraq. Do you think this is a valid distinction or does this cloud the debate?

Dr Hegghammer: To some extent it is, because it is related to this point of mine that the groups in the theatre are not actively targeting the west. The jihadi groups in Syria are involved with a strong sectarian dimension in the war and there is a lot more talk about Shi'ites, and their hatred for Shi'ites, than there is talk about the west and their hatred for the west, but we have to bear in mind that, especially in the foreign fighter community and among the transnational jihadis, these opinions can change quickly. It is not very long ago that sectarianism was not much on their minds at all—they would focus more on the western threat. They switched quite quickly in the context of the Syrian war, but I feel that they could equally switch back again, given the right circumstances.

Q569 Lorraine Fullbrook: Ultimately, you think that the foreign fighters in Syria are as dangerous as those who travel to Afghanistan and Iraq?

Dr Hegghammer: I would say at this point they are probably as dangerous as the ones who went to Iraq, but they are not as dangerous as the ones who went to Afghanistan.

I alluded to this earlier, but there is a huge difference between Iraq and Afghanistan. Iraq produced very few plots in the west—the blow-back was very low—while AfPak has had a very high blow-back rate, because it has had an organisation, al-Qaeda central, which has all along had as its main objective all along to carry out attacks in the west.

Q570 Mr Clappison: Dr Hegghammer, a few moments ago you were asked various questions speculating on what may lead somebody to go to fight in Syria. In your view, what it is that drives a young man to go and fight in Syria?

Dr Hegghammer: I have not studied the profiles of outgoing foreign fighters in detail, but my impression is that there is a wide range of motivations. Some of them are idealistic and to some extent laudable: it is about helping fellow Muslims in need and providing humanitarian assistance and other forms of support. There are also people who leave with the more nefarious intention of wanting to help build a very strict, al-Qaeda style, sharia state in Syria. Then again there is another category of motivations that are more

proximate, about the social dimension—the search for camaraderie; the joy and excitement of adventure; the pleasure of doing something with your life; making a difference: all that kind of thing.

Q571 Mr Clappison: That is a common feature of people going to conflicts. There needs to be a cause first, though, does there not?

Dr Hegghammer: Excuse me?

Mr Clappison: That is what people do—people join armed forces and all sorts of conflict situations with those sorts of motivations in mind—but there has to be a cause behind them first, does there not? Is that right?

Dr Hegghammer: In many cases it is about a general kind of pre-disposition to this type of activism, then a particular opportunity comes along, in the form of a friend suggesting a trip, or some kind of recruiter coming into their orbit explaining that it can be done in this particular way—that kind of thing. It is a combination of a pre-disposition and an opportunity in the form of some kind of social link or social relation. My impression is that most people go with friends and they get the idea from people in their social networks. There are few people who are completely self-mobilised, entirely based on internet propaganda.

Q572 Mr Clappison: The situation among the rebel groups in Syria has become really rather complex. You have made the distinction between those fighting with local insurgents and those fighting with international terrorist groups. Could you tell us how you would view those who are fighting with the al-Nusra Front or the ISIS?

Dr Hegghammer: Both the al-Nusra Front and the ISIS are very radical Islamist groups who use terrorist tactics within the war theatre, even though they do not do operations in the west as yet. Syria specialists—of which I am not one—say that there is a slight difference between the al-Nusra Front and the ISIS, in that the ISIS is a more trans-nationally minded organisation. The al-Nusra Front has more of a Syria-focused agenda. It is reflected in their names. ISIS stands for Islamic State of Iraq and Syria. They pose themselves as an alternative state that will transcend the Iraqi-Syrian border and reject the current international system in that region. The al-Nusra Front does not call itself a state because it wants to build an Islamic state within the current borders of Syria.

Based on that, some assume that the ISIS is the more internationally minded and perhaps the more dangerous from a western perspective. However, the thing is that it is the al-Nusra Front that has the strongest links with al-Qaeda central.

Mr Clappison: I was going to ask you that.

Dr Hegghammer: You may have seen the report last week about the al-Qaeda leader, Ayman al-Zawahiri, disowning the ISIS saying they are no longer part of the al-Qaeda franchise and saying that the al-Nusra Front is their only partner in Syria. That creates a paradoxical situation in which the al-Nusra Front is characterised as less radical, but it is connected to a very dangerous organisation.

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I happen to think that the current situation, in which the al-Nusra Front is in some kind of debt of gratitude to al-Qaeda central—for having condoned it and for having disowned its local rival—means it is not unfeasible that the al-Nusra Front might help or facilitate operations by al-Qaeda central using foreign fighters in Syria, so that when a representative from al-Qaeda central comes along and says, “Can we please use some of your operatives or some of the foreign-fighters for one of our projects?” it will be difficult for them to say no. So even though the ISIS may seem more radical, the al-Nusra Front is the group to watch.

Q573 Mr Clappison: Very briefly, have you seen any evidence of anti-western animus in Syria on the part of the al-Nusra Front—attacks on civilians or journalists or anything like that?

Dr Hegghammer: I don’t follow the in-theatre developments in enough detail to say for certain. I would assume that that has been the case, but it is often difficult to attribute particular developments to particular groups.

Chair: Thank you very much.

Q574 Mr Winnick: You have given evidence today, doctor, obviously because of your deep understanding, the establishment that you run and the evidence that you have given to various organisations in different countries. I wonder if I can put this question to you. It is obviously very difficult to forecast; I am asking frankly if you have any opinion. How long do you think it is likely that Islamic terrorism is going to last? Is it a matter of five, 10, 15 years, or as long as European communism lasted?

Dr Hegghammer: If you had asked me that question two or three years ago, I would have been able to give you a more optimistic answer, but things have happened over the past two or three years that have made me revise that estimate substantially. The Syrian war and other developments suggest to me that we are going to see this phenomenon last for a long time. A very conservative estimate would be 15 to 20 years, and I suspect it will last longer. There is an entire new generation of militants being socialised into violence in Syria. There are more Jihadist groups across the Middle East now than there was right after 9/11. There are more people under arms. Basically this movement does not show very many signs of weakening at this point in time, so I think this will go on for several decades.

Q575 Chair: Thank you. Are you also telling this Committee that the recruitment that you mentioned is

going on in the UK through the medium of, for example, the internet? How are they recruiting new people? We understand those who decide on their own to go out to Syria, but they are presumably seduced by a particular ideology. How is this recruitment happening?

Dr Hegghammer: I think it happens through various channels. Of course propaganda on social media and other websites is very important. I think it is not just the propaganda in itself that motivates people. You do not necessarily need the al-Qaeda propaganda to motivate people to go to Syria; some of the regular news reporting of what is happening there will motivate some people to have the view that they are somehow responsible for defending fellow Muslims in need.

Similarly, social media affects recruitment simply by linking people up—Facebook, for example. When someone travels to Syria and posts pictures from there and his friends see those pictures, those friends are more likely to be inspired to go. That is not really propaganda; that is just regular information conveyed through online social media that then facilitates recruitment. We should not focus too much on the propaganda products themselves, but more on the platforms from which the kind of information is conveyed.

Q576 Chair: I started with Abu Suleiman al-Britani. I want to end with this. *The Daily Telegraph* report that British Muslims have carried out acts of torture and possible executions in Syria, and they have posted some of this information and footage on the internet, with people being flogged with an iron bar. Is there evidence that British people are involved in such activities? It has been on the internet and we have seen it on Facebook, but do you have evidence to corroborate that?

Dr Hegghammer: Yes, I believe I do. Syria is the most socially mediated conflict in history and there is an enormous amount of audio-visual documentation produced by rebels themselves, documenting the things they do, and there is no shortage of proof that foreign fighters are involved in serious acts of violence and so on in Syria.

Chair: Dr Hegghammer, we are most grateful. Thank you very much for joining us from Oslo to give your views to this Committee. We may be writing to you before the end of our inquiry with further questions and we would be most grateful if you could answer them, but we are extremely grateful to you for helping us with our deliberations. Thank you very much indeed.

Examination of Witness

Witness: **Professor Sir David Omand**, former Permanent Secretary, Home Office and former Director of GCHQ, gave evidence

Q577 Chair: I welcome our next witness, Professor Sir David Omand, GCB and former Head of GCHQ. Thank you very much for coming. I noticed that you were in the previous session, so we might be asking you some questions about what we all saw.

Let me start with a question about Edward Snowden. After the leaks in *The Guardian* you were quite specific. You seemed to be quite angry over what had happened and you said in a *Times* interview in October 2013: “The assumption the experts are working on is that all that information, or almost all of it, will now be in the hands of Moscow and Beijing. It’s the most catastrophic loss to British intelligence ever, much worse than Burgess and MacLean in the Fifties”. That is a pretty sweeping statement and it goes well beyond what the head of MI5 and the head of MI6 said in evidence.

Professor Sir David Omand: The second part of that statement I certainly stand by. Indeed, what has emerged since I said that bears that out, not only in relation to the United Kingdom, but also in relation to the United States. More has emerged about the security measures taken by Mr Snowden to try to ensure he had control of his material. It is still my assessment that it is unlikely that intelligence services, of the professionalism of both the Chinese and the Russian services, have not found ways of accessing at least some of this material. Even if it was heavily encrypted, over a period of time they would be able to uncover it. That is why in the same statement I describe this as a “slow-motion car crash”.

Q578 Chair: It went much further than evidence given by John Sawers and others to our sister Committee.

Professor Sir David Omand: I have no reason to believe that they would disagree with what I said. Do you think—I should not ask you a question, Mr Chairman, but let me put it rhetorically.

Q579 Chair: You can ask me anything. I have no information on this. You were the Head of GCHQ, so you have all the information.

Professor Sir David Omand: Let me ask the question rhetorically of myself: can we think of any other loss of intelligence information on this scale, where what has been revealed already is damaging, but what is potentially able to be revealed, from the totality of the material, really would be devastating? My remark of course was to the loss of the information.

Q580 Chair: I am sure, because the latest leak story suggests that GCHQ had a covert unit that uses a honey trap, trying to get people involved in sexual liaisons, texting anonymous messages to friends and neighbours to discredit targets from hackers. Such activity, if it is happening—and presumably may have happened under you, because there is no indication that this is something that happened last week, so you could well have been in charge of such covert operations—do you not think that Parliament and the people, through legitimate scrutiny, have a right to

know that their security services are involved in such activity?

Professor Sir David Omand: Mr Chairman, just to answer your innuendo first, I have no knowledge of such activities, either in my time or subsequently. I suspect that the piece of journalism to which you refer requires some quite close scrutiny to try to work out what it means exactly. On the thrust of the point about Parliament, of course you are absolutely right. That is why we have the Intelligence and Security Committee of Parliament.

Q581 Chair: Yes, but the Intelligence and Security Committee of Parliament is not elected, is it? Until very recently the Intelligence and Security Committee of Parliament, and other methods of scrutinising, have conducted their business in private.

Professor Sir David Omand: I do not wish to intrude on the private grief between two parliamentary Committees, Mr Chairman.

Q582 Chair: I am not asking you to do that.

Professor Sir David Omand: It was Parliament itself that gave greater powers to the ISC.

Q583 Chair: Sir David, sorry, you are very experienced: you were Permanent Secretary; you are the mandarin’s mandarin, if I can put it like that. I am putting to you a question; I do not want you to adjudicate between parliamentary Committees. I am asking you a question. Until recently this has been occurring in secret, has it not? As far as I can remember, when you were Head of GCHQ you did not appear before the Intelligence and Security Committee—because it did not have the powers it does now—and give evidence in open session, did you?

Professor Sir David Omand: Not in open session, nor would that have been appropriate at all, in my view. These are not matters for open session. That is why in its wisdom Parliament voted the Act to set up an ISC and subsequently give it greater powers, so that it can be given the full facts in private.

Q584 Chair: So did you prefer the architecture that existed at the time you were in charge of GCHQ? Forget about the wisdom of Parliament—of course Parliament is always wise. In terms of the way in which you do your work, do you feel that it is a better system now that the heads of these services appear before the Committee, and do you think that there is scope for extending it further? One of the points made by Alan Rusbridger to this Committee is that because the architecture of scrutiny is so poor, the only option is that journalists have to produce this information so that it is put in the public domain. You are no longer the Head of GCHQ; you are a very distinguished academic and you come here of your own free will. Do you think that we should go that step further, as they have done in the United States of America, where their committees are able to question the heads of their

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services much more regularly and with a much bigger sense of scrutiny?

Professor Sir David Omand: I am personally more comfortable with the situation we are in now, where the Intelligence and Security Committee has, for example, the right to demand papers rather than to request information without any assurance that they will actually get to see the documents concerned.

The Committee worked well in my day. The issues it was dealing with were perhaps slightly simpler than those of today. I think it was right for Parliament to move on and to grant additional powers, but I would have to say that, in my view, public hearings can only have one purpose: that is so that the public at large, and indeed the rest of Parliament, through the work of the Committee, can see the moral fibre of the people who are running these agencies. It is quite inappropriate for the Committee to attempt to establish, in public sessions, evidence about matters that should not be debated first in public. I think the Committee probably has an undervalued potential role in checking out whether those who run the intelligence agencies—not just the heads of the agencies—share the values, which I hope we all do, about a free and democratic society and have a proper respect for privacy. That is something that the experienced hands on the Intelligence and Security Committee can establish. They can visit the intelligence agencies, they can talk to junior staff and they can get their own sense about whether these are well regulated.

I would not accept that the American oversight system has worked better than ours. I think ours has worked considerably better than theirs. Indeed, there is some anger in American oversight circles that they did not get told everything they should have been told by the Executive about what the National Security Agency was doing.

Q585 Chair: Indeed; so you are telling this Committee that, in your view, an open session with the heads of the services before the Intelligence and Security Committee is to look at the moral fibre of those who are giving evidence.

Professor Sir David Omand: Yes, so that the public can see in the flesh who it is that—

Chair: That they are good people?

Professor Sir David Omand: That they are good people.

Chair: Very moral and upright people?

Professor Sir David Omand: Yes.

Q586 Dr Huppert: Thank you very much, Sir David; it is very good to see you again. Tempting as it is to dwell on US information security and how they managed to lose so much data, I think we probably should not. In 2012 in your book for Demos, *#Intelligence*, you said: “Democratic legitimacy demands that, where new methods of intelligence gathering and use are to be introduced, they should be on a firm legal basis and rest on parliamentary and public understanding of what is involved”. Do you think we have managed to achieve that with the new techniques that are available to use, now that more

and more information is online? Has there been parliamentary and public understanding of it?

Professor Sir David Omand: No, and I think over the last few years more could have been done to explain on the one hand the purposes of investing in the new technology in this way; and secondly, some of what is involved. I say “some”, because there are limits on how far disclosure should go. I am sure the Committee will have looked at the code of practice for the Regulation of Investigatory Powers Act, which is on the web. Does that give a clear view in common language, plain English, of how it all works? It is better than trying to read the Act itself, which is quite difficult to follow, but I think more could be done.

I have been saying to some of my old colleagues, “Why don’t you rewrite the code of practice, expand it, explain the difference between communications data on the one hand and content on the other?” That would be a service in the direction of your question.

Q587 Dr Huppert: That sounds like a helpful call for openness from the agencies. What more can we do within Parliament to make sure that there is discussion about this, as you have called for?

Professor Sir David Omand: Well-attended debates on these issues when the Intelligence and Security Committee produces its report would help. I do not detect that in the past there has been that much interest in this subject, but perhaps there are many more interesting things for Parliament to be debating. Showing interest I think is a good start.

Q588 Dr Huppert: One last question for now, if I can, Chair. You talked about the distinction between content and communications data. We have discussed this here before. Do you really think it is a robust definition, particularly given the definition under 21(4)(c) for subscriber data, described as communication data so not content, “Any information that is not traffic or user data held or obtained in relation to persons to whom he provides the service, by a person providing that service”? That means that any information held by Facebook about me is subscriber data, if I am communicating.

Professor Sir David Omand: No.

Q589 Dr Huppert: Where in the law does it say it isn’t?

Professor Sir David Omand: I think that is in the next section, which I have to confess is a little obscure. I was the Permanent Secretary in the Home Office when the Bill was put together and then presented. The instructions to parliamentary draftsmen were to make it technology-neutral, because everyone could see that the technology was moving very fast. Parliamentary draftsmen did an excellent job in doing that, but as a result I do not think the ordinary person or Member of Parliament would be able to follow the Act without a lawyer to explain how these different sections interact. The plain truth is that there has been a major public misunderstanding over this—promoted by the media—because communications data is defined in the Act and the analysts and the intelligence community have to follow the law in the Act.

Q590 Dr Huppert: I cannot find what you say in the next section either. Could you write to us and explain how the information I am concerned about—the subscriber data—is excluded? If you can explain to us, that would be very helpful.

Professor Sir David Omand: Yes; I am conscious again that the Intelligence and Security Committee are also looking at it. Perhaps the Clerks could get together.

Chair: All right. It is possible for two Committees to be interested at the same time; we do not all just do the same thing following each other.

Q591 Paul Flynn: I want to ask about two matters in my time in Parliament, the first of which is the decision to join the war in Iraq in 2003, which the security services and the Intelligence Committee were cheerleaders for and supporters of. We now know that that decision meant the loss of 179 British lives. Those lives were sacrificed in the cause of trying to protect the United Kingdom from attacks from non-existent weapons of mass destruction. Do you think that there has been some improvement now and that the loss of confidence in the Committee and the security services from that event—and another one I will mention in a moment—has been repaired in some way?

Professor Sir David Omand: Time has healed to some extent, but it was a very significant blow to the credibility of the intelligence community and we fully accept that there were significant matters that we got wrong.

I think you mentioned the Security Service in your question. That may have been a reference to the Secret Intelligence Service. I think Dame Manningham-Buller gave evidence to the Chilcot Committee—as I did—pointing out that in our joint Intelligence Committee reports we had indeed made clear that the consequence of intervention in Iraq would be an increase in radicalisation domestically.

Q592 Paul Flynn: You accepted the likely existence of weapons of mass destruction, did you not?

Professor Sir David Omand: Yes.

Paul Flynn: And you were wrong.

Professor Sir David Omand: Yes. Well, we believe we were wrong.

Q593 Paul Flynn: Just another matter, if I can briefly go into it. A similar, but even worse decision—which a Conservative Member asked for an inquiry into yesterday—was that in 2006, there was debate in the House on the wisdom of an incursion into Helmand Province, where at that time only two British soldiers had died in combat. The justification for going in—again, supported by the cheerleaders on the Security Committee—was that we would be there for a maximum of three years, end the growing of heroin, which is now at a record level, and come out in the hope that not a shot would be fired. It was compared in the debate in the Commons as equivalent to the charge of the light brigade. The person who did that understated the situation because the numbers of British casualties—lives that have been lost in Helmand—are three times the numbers lost in the

charge of the light brigade. When we look back at the record of the security services and the Intelligence Committee, was this not a terrible mistake to support Government at that time? Should they not have been providing a check on the Government?

Chair: Thank you, Mr Flynn. A brief answer, because we need to move on.

Professor Sir David Omand: We should look forward to the publication of the official history of the Joint Intelligence Committee, which at the moment is being written by one of my colleagues at King's College³. I hope that will be published within a few months, and that will perhaps set the record straight about the overall balance between getting things right and getting things wrong.

Q594 Paul Flynn: Would you answer the question?

Professor Sir David Omand: I had left Government service by then. I do not think I have any way in which I can help.

Q595 Paul Flynn: Has there been an improvement that should increase public trust in the intelligence services after these two calamities?

Professor Sir David Omand: I would simply point to the number of terrorist plots—directly relevant to the inquiry you are engaged in here—which have been frustrated by the activities of the intelligence services, and we are all safer because of it.

Chair: Thank you. Let us move on. We will come back to you later, Mr Flynn; we want to move on to other issues after your questions.

Q596 Mr Clappison: I think we all appreciate the great debt of gratitude for the work that is done by the security services, which we do not see, and some of our constituencies close to London have seen the consequences of what can happen when people travel into London and get blown up on buses just going about their day's work.

Can I ask you another question on supervision and parliamentary accountability? You said that MPs could perhaps pay more attention to debating reports and so forth. Can I raise with you one area where something does seem to have gone wrong—and which MPs certainly did take an interest in—and that is the question of extraordinary rendition? I remember colleagues asking question after question about extraordinary rendition and being told that there was no UK involvement at all. If you are told that, you have the equivalent of the straight bat play and it is very difficult to take it any further. We then find out that that is not entirely the case. Can you give us your view as to what went wrong with accountability on extraordinary rendition?

Professor Sir David Omand: I am not in a position to answer that. As I understand it, the police are still conducting inquiries that are relevant to that. I really do not think it is something that I should be commenting on in public.

³ Note by witness: Dr Michael Goodman, *The Official History for the JIC*, Vol 1, London: Routledge, with a scheduled publication date of June 2014

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Q597 Mr Clappison: You can understand the frustrations of parliamentarians when we do ask questions conscientiously and are given the equivalent of a straight bat and it turns out not to be the case?

Professor Sir David Omand: That is a matter where, again, the Intelligence and Security Committee have produced at least two reports, so if parliamentarians have concerns, I would have thought that they would wish to direct them to their colleagues who sit on that—

Q598 Chair: Can I just explain something to you about the way in which Select Committees operate? As a former Permanent Secretary, you ought to know this. When we have witnesses here, it is open to Members of the House to ask witnesses their questions. You are not here to speak on behalf of the Intelligence and Security Committee. Mr Clappison is perfectly in order under the rules of Parliament—which you have said is very wise—to put a question to you. He is asking for your opinion, not the opinion of the Intelligence and Security Committee. We can get that at any time, because we see them every day; he is asking for your opinion. We do not see you every day; you are here as a witness and that is what he is putting to you.

Professor Sir David Omand: I have just given my opinion.

Q599 Chair: Sorry, what was that again, for the record?

Professor Sir David Omand: My opinion is that it would be wise for Members of Parliament who have concerns about matters like that to raise it with the Committee of the House that is already examining these matters.

Chair: Sir David, that is not your opinion. We are asking your opinion on the issue that has been raised by Mr Clappison. As you have said, you have left the Government service. You are supposed to be the Professor of War Studies at King's College, London, and you have held all these great offices of state. As far as we are concerned, you are an expert, and you know very well when you come before a Select Committee that the members are going to ask you questions. This is not a tea party; this is a Select Committee of the House. We know we can ask Sir Malcolm Rifkind questions, and we know how to read reports; Mr Clappison is asking you a specific question. Would you like to put it again, Mr Clappison—otherwise you will be in contempt, Sir David.

Q600 Mr Clappison: I asked what you thought in your opinion went wrong with accountability on extraordinary rendition, when that was an issue before the House. Did you think that something has gone wrong?

Professor Sir David Omand: I do not think anything went wrong on accountability, except that perhaps we should have moved rather earlier than we did to ensure that new guidance was issued and available to members of the service, but the law on rendition has always been very clear in this country. That was well understood. Given the circumstances of our

involvements with the United States, I regard it as a matter of great pride that there were not more issues that arose out of that relationship. In fact, British agencies and armed forces acted with enormous discretion and common sense. That is my view.

Chair: That is a very helpful answer.

Q601 Mr Clappison: Put simply, do you not think there is something wrong with accountability when MPs who ask about it are told, “No, there is no involvement at all in extraordinary rendition and torture” and then it turns out to be the case that there was some involvement? Surely there is something wrong with accountability there.

Professor Sir David Omand: I do not think I can answer that without getting into specifics and specific cases.

Q602 Chair: So you have specific cases to tell the Committee about, which we could take in private?

Professor Sir David Omand: No, but if you do not have specific cases, then I think the whole discussion is moot. If there are some specific cases, and those are public knowledge—

Chair: The best course of action in respect of specific cases is that we write to you privately about that. Shall we do that?

Professor Sir David Omand: Yes.

Q603 Mark Reckless: Sir David, I do not see the need to refer to specific cases. It seems to me that what you are being asked was: is accountability okay or were there any other concerns about it? You say it is fine and there is no reason to have concern. Is it not the case that MPs when posing this question were told there was no involvement and it has since become clear there was some involvement? How is it consistent to say there is no problem with accountability, when MPs were told there is no involvement and it has become clear there is some involvement?

Professor Sir David Omand: If we take the parallel of military operations, we have a system of accountability for the actions of our armed forces. That does not, of itself, guarantee there will never be mistakes made. I think we are talking about different things.

Q604 Mark Reckless: You certainly were in your answer to the question that I and Mr Clappison were asking. MPs put questions about whether there was any involvement from our security services in these matters of extraordinary rendition. Was it not the case they were told “No” and we now know there was some? How can you then say there is no problem about the accountability measures?

Professor Sir David Omand: If you are saying to me, “Was the statement that was made to the parliamentary Committee”—I do not have in front of me exactly what was said at the time—“said in good faith on the information available then?”, then I am sure it was.

Q605 Mr Clappison: We were told this on the Floor of the House. We were given answers that had no

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room for any misunderstanding. We were given absolutely categorical, comprehensive answers that there was no involvement at all. It subsequently turned out to be the case that there was and it has been admitted that there was in specific cases. Can you understand the frustration of parliamentarians who are trying to hold Ministers or the secret services to account and being told something that was not the case?

Professor Sir David Omand: Yes, I can certainly understand that. As I say, I do not think this necessarily bears on the question of accountability.

Chair: That is very helpful.

Q606 Michael Ellis: Sir David, can I just go back to a question that the Chairman put to you some time ago, at the start of your evidence session? In relation to Snowden, is it correct to say, from your very recent directorship of GCHQ, that the Chinese and the Russians, for example, are able to get into heavily protected material that is even under Government protection? In other words, do they have the means and the ability and that—if you cannot answer that question, let me put it this way—they seek to obtain access to even the most heavily protected material? If you answer that question in the affirmative, my question to you is: do you believe that the ability of journalists and individuals like Snowden is such that they are capable of preventing foreign actors with state assistance from obtaining access to their protected documents?

Professor Sir David Omand: I think it is now quite well documented—and I would refer the Committee to the US report, the Mandiant report on Chinese cyber-espionage—that indeed it is possible to attack Government systems, even protected systems. Through a combination of social engineering, obtaining access through guile, and then the planting of malign software, it is indeed possible to do that. Defensive techniques have improved enormously, so it would be possible, with enough effort, to keep secrets secret. What you would not do in those circumstances is employ someone like Edward Snowden, and you would not give them the untrammelled access that apparently his contracting firm gave him. Provided you were sensible about that kind of issue, then yes, I think it is possible to keep secrets secret.

Q607 Michael Ellis: On the issue of oversight, I think most people in the UK would accept that, for obvious reasons, nation states do have to have secrets. Have the unauthorised leaks and the media focus from certain quarters had a negative effect on morale on the hardworking staff—whom I commend—who work in GCHQ on national security matters?

Professor Sir David Omand: Clearly, I can only answer from the outside. My impression is that, yes, it has been a bitter blow, particularly to see years of work being exposed. There are concerns about their reputation. They have been accused of breaking the law—I do not believe they do or have done, but that is a common accusation. They have been accused of going around the back of the law, using the United States as a back door to do things that British law

would not allow them to do. I do not believe that is true.

If they are subject to those kinds of accusations—including, I may say, by Members of your House—this is inevitably not going to be good for morale. It is not good, too, for families, and one has to have regard for the fact that these are ordinary fellow citizens. They go home; they talk to their families; they are part of social groups. That cannot be comfortable. In terms of recruiting, would parents advise a young person to join an organisation that is routinely accused of mass surveillance, which they are not engaged in?

On the other hand, the upside is that I think they are in a very well-led organisation. All the managers I have met, long since my time, are extremely capable, very intelligent and very sympathetic individuals, so I am reasonably optimistic that they will ride this out.

Q608 Michael Ellis: My final point on this issue to you is this. From your knowledge of the matter and of GCHQ, do you believe that there will be serious cost implications to the public purse in the unauthorised leaking of information that in some cases has been worked on for years by paid staff of GCHQ? These are projects that have cost perhaps millions to work on, staff who have been rostered to work on projects for years and their salaries. Do you think there has been a cost effect that will be very expensive to the public purse of these issues?

Professor Sir David Omand: I think there will be a cost effect. I would find it quite hard to know exactly how you would calculate it. The technologies keep moving, so you are continually reinvesting. What I think is more concerning is a loss of intelligence, at least for a period of some years. There will be less information, less knowledge on which to base decisions, whether these are military, political, law enforcement decisions, or decisions relating to the counter-terrorism campaign that is the subject of this inquiry. All of that has a very heavy cost to the public, but I find it quite difficult to know how to put a price on it.

Q609 Lorraine Fullbrook: Sir David, can I ask what you think of the offer of Huawei, the Chinese mobile telecommunication company, to put mobile communications free of charge in the London Underground?

Professor Sir David Omand: It is not a matter I have given any thought to. I am out of touch.

Lorraine Fullbrook: Really?

Professor Sir David Omand: I am out of touch with the current debate over Huawei. I was involved during my time at looking at how far that company should be allowed to sell products into the critical infrastructure, and steps were taken to ensure that we are not wholly dependent on it.

Lorraine Fullbrook: That is really my question.

Professor Sir David Omand: I cannot specifically comment on any of the arrangements made for London Underground. I simply do not know.

Q610 Lorraine Fullbrook: Or any infrastructure, then, that this company is offering free of charge in

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the UK's mobile telecommunications infrastructure. Do you think that is a good thing or a bad thing?

Professor Sir David Omand: Under the right conditions and the right kind of technical supervision, perhaps it could be made to work. I cannot give you a judgment; it would need a very careful risk analysis before I would say, "Yes, that is obviously a good thing," but I would not rule it out just because they are a Chinese company. They have a world brand to protect and nothing would demolish that faster than being caught planting some Trojan virus in a key communication system. There are two sides to the argument that would need to be balanced, and I am not in a position to make that balance.

Chair: This is not an episode of Sherlock Holmes, is it?

Q611 Mr Winnick: Sir David, we all know of the ongoing threat to the security of our country from the terrorists—7/7 of course and all that has happened since abroad, and in Kenya very recently. Following on from what Mr Clappison said about the Intelligence and Security Committee and what happened, did it come as a surprise to you that the Master of the Rolls at the time, Lord Neuberger, said this in a ruling in a case: "Some security service officials appear to have a dubious record when it comes to human rights and coercive techniques"? Did that come as a surprise to you?

Professor Sir David Omand: Yes. Frankly, at the time when I read it, I did not see the basis on which that remark was made.

Q612 Mr Winnick: I am surprised that you should say that, because a year earlier when the same case—Binyam Mohamed—came before an American court, descriptions were given of the tortures that he was subjected to. His genitals were mutilated. He was deprived of sleep and food and he was suddenly transported from one foreign prison to another. No one has suggested that British security officials were participants in the torture. I have heard no such allegation, but I have heard—hence Lord Neuberger's comments—that there was complicity. Should the Intelligence and Security Committee not have been aware of what was happening? At the time, there was absolutely no report from that Committee of such matters.

Professor Sir David Omand: If I might just ask for clarification, do you mean aware at the time of the activity or aware, because I take this—

Q613 Mr Winnick: We are told that the Intelligence and Security Committee is briefed by security officials. I could well understand they are not going to necessarily tell the Committee about such occurrences. If they were complicit, obviously one would not expect them to do so, but should the Intelligence and Security Committee not have probed and investigated, because there were allegations that were around before the court case?

Professor Sir David Omand: I simply do not know whether they probed or not. If they did, it would have been in private and I simply would not know.

Q614 Mr Winnick: You say you were surprised by Lord Neuberger's comments. Does that mean that you worked on the assumption that no security service person—MI5, MI6, GCHQ—would have ever, under any circumstances since the end of the Second World War, been complicit in torture?

Professor Sir David Omand: I certainly cannot say that, nor about the armed services. The Public Record Office from our colonial past has some disturbing stories. If we are talking about the period after Parliament decided to put the agencies on a statutory footing, then I would be very confident that that is the case.

Q615 Mr Winnick: Just a last question if I may, Chair. If these allegations are correct—and Lord Neuberger would hardly have made those comments unless he had every reason and justification for doing so, however much you disagree or were surprised by his comments—what lessons should be learned? Apart from the fact there should not be complicity and torture, what lessons should the political masters take from that?

Professor Sir David Omand: There are a number of lessons that one must take from that. One is about the education and training of those who serve our country in those services, to ensure that they are under no misapprehension at all about what is expected of them. I believe that is done, but could more be done? It is a question that could be asked. I think we should look very hard at whether the boundary is clear. The grey area, over what you call complicity, is the fact of having a liaison between our service and a foreign service overseas, which may be in a region that is vital for our security, but whose conduct as an agency falls far short than we would insist upon. Should we not have such relations? If we do have such relations, which are very much in our security interest, what are the ground rules, and are we all clear enough about what those ground rules are?

In response to Mr Clappison, I think I did say that perhaps we should have moved rather earlier after 9/11 to make doubly certain that the instructions and the rules were clear. Eventually they were written up and issued. Would it have helped the personnel on the ground in a very far-flung, remote place, faced with working with people whose behaviours would have fallen short of our standards? It might have done, but in the end there is human judgment here, and individuals—particularly if they are out on their own somewhere—are going to have to make judgments.

Q616 Mr Winnick: You question the word "complicity", but surely the judgment should be absolutely clear that British Security Service personnel under no circumstances will be a party in any sense whatsoever to torture, however dubious some of those regimes are. Do you accept Have you said that or not?

Professor Sir David Omand: With respect, I think you have to define what "Be a party to" is. If the United Kingdom Government has a liaison relationship with country x, which is believed to, if not torture, then at least treat suspects inhumanely, should we break off relationships with that country? If we do have such

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relationships with that country, how do we manage that? If information from that country arrives with us that bears directly on the security of our citizens, do we refuse to read it? These are real issues. It is not as simple as—

Q617 Chair: Thank you. That is very helpful. We do need to move on; we can come back to this later if there is time. Can I just say to colleagues, we have two more witnesses after Sir David, so could I ask everyone to put brief questions? Sir David, you are an old hand at this, so brief answers, please.

Let me just turn back to the evidence of Thomas Hegghammer and a statement you made in 2010 that al-Qaeda was “on the wane”—I think you said—or the influence of al-Qaeda was waning, and that we must not give it any more impetus. Do you think that the Syrian conflict has done exactly that?

Professor Sir David Omand: I am afraid I do, yes.

Q618 Chair: Are you concerned and worried about the number of jihadists who are leaving our country, going to Syria, and then returning, possibly, to be involved in activities that put the lives of our people at risk?

Professor Sir David Omand: Yes, I am concerned. I am also concerned not just about numbers, but about an aspect that did not come out in the earlier evidence taking, which is the battle-hardened nature of the individual who returns. If you see any of the videos of the conflict—young men with an AK47, untrained, simply spraying bullets around—and you compare that to the terrorists who took over the Westgate shopping mall, who were trained and hardened, and who husbanded their ammunition, going from place to place not killing randomly, but very selectively, my concern is—

Q619 Chair: Yes, so your concern is the unprofessionalism. You contrasted two sorts of terrorists: the professional terrorist—the one who had been trained carefully to select victims—and perhaps the unprofessional terrorist, who is going from the United Kingdom, having seen this on the internet, looked at it on Facebook, and ending up on the border between Turkey and Syria—

Professor Sir David Omand:—ending up as the professional. In other words, the fighter goes out there as perhaps a rather naive young man, but is battle-hardened by a few months of intensive combat, picks up all the training skills and comes back a very much more dangerous individual. That is not to predict that all of those who come back will be in that category.

Chair: Of course. We understand that.

Professor Sir David Omand: But it would only take a very small number to cause a real problem.

Q620 Chair: I know that things have changed since you have headed GCHQ and since you have been the Permanent Secretary, but the fact remains that the best way to stop this happening is to stop them leaving in the first place. Do you think we have got it right? Are we stopping enough of them leaving? Of course, we have read about particular stories of people being arrested even at the airport before they board planes

to go to Turkey, for example. Are we doing enough to stop them leaving, to stop them becoming battle-hardened terrorists?

Professor Sir David Omand: I can only estimate. I think probably we are. Bearing in mind that some of those who travel are travelling to other destinations in order to finally make their way to Syria, it may not be evident to the authorities what their ultimate destination is. Some are travelling for humanitarian purposes, and there is a balance in the law here that has to be achieved.

Q621 Chair: We do not want individual cases from you, but having headed GCHQ—you are the only live witness we have, so to speak, who can tell us about the way in which the security services operate—would you know who these people are before they board that plane, or would you know who they were only when they got back? In other words, would they be under surveillance? Would a proportion of them be under surveillance?

Professor Sir David Omand: A proportion of them certainly would, because they would already have been picked up by the police and by the intelligence services as people holding a particularly violent, extremist view. They would therefore be under some form of surveillance or, at least, were they to leave the country that would then potentially flag it.

Chair: We understand.

Professor Sir David Omand: That could only be a proportion.

Q622 Chair: We know this is only a guess—because things have changed and you are only giving us a guess today—but of the 400 or so who we know have left our country, is there any way you can help this Committee?

Professor Sir David Omand: I could not even begin to hazard a guess, because I do not know.

Q623 Chair: Would it be less than 10?

Professor Sir David Omand: I simply do not know.

Chair: You would not know. Thank you very much.

Q624 Mark Reckless: Sir David, you have spoken before about the importance of capacity building in troubled states without relying just on military intervention. To what extent would you say that the FCO’s justice and human rights programme has that succeeded in doing that?

Professor Sir David Omand: This is a work in progress and results take quite a long time, but if we were to look at, say, Indonesia as a country—where both ourselves, the Australians and the United States have put great effort in to try to build the capacity of the Indonesian authorities to deal with violent jihadism—they have been really quite successful. It can be done, but it must be slow, patient work. Building a judicial system that carries respect, building a police service that does not torture—these are all things that may take a lot of effort to achieve. Corruption perhaps must be one of the most difficult to tackle, because it is so endemic in a number of countries, but if we do not reach out and try to help then we are missing a part of the overall strategy.

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Q625 Mark Reckless: British policing generally has a high reputation overseas. In terms of what you saw of this capacity building and the systems, particularly on the policing side overseas, did you feel that the set of financial incentives for our police forces, or for individuals involved, was sufficient to bring forth the secondments and allocations of police to international duties and supporting this type of programme?

Professor Sir David Omand: No.

Q626 Mark Reckless: What should be done to improve them?

Professor Sir David Omand: A lot of effort over the years has been put in to try to find different mechanisms, but it is the case that if the Government so decides to deploy the armed forces, they will organise themselves and deploy in an orderly fashion. If you want to deploy a couple of dozen police officers in order to bolster the local effort, it is up to the individual chief constables. There are mechanisms to try to get volunteers; it is going to take quite a long time. It is much easier to mobilise the armed forces than the essential civil support that is needed. That is also true of the fire service, although the fire service in a different context has done a great deal overseas. It is true in, for example, prosecution, with prosecutors; it is true with judicial co-operation. Given that we would always be talking about volunteers here, it is a little difficult to see how you could have a system that would guarantee you would be able to deliver. Some action has been taken at a European level. There are a number of countries that have been introducing people. I think it is very helpful for us to work with European partners on trying to do this. Police support is essential.

Q627 Dr Huppert: Sir David, in your book in 2010, you outlined six principles for intelligence, and other people have articulated other sets of principles. How do your six compare to the five Reform Government Surveillance principles from the big tech companies in the US, or the 13 International Principles on the Application of Human Rights Communication Surveillance? Have you done a comparison between those?

Professor Sir David Omand: I have not done a detailed comparison. I drew my principles essentially from the just war tradition, on the grounds that all intrusive intelligence activity carries moral hazard, and it has taken us centuries to evolve a set of principles for trying to tame the worst excesses of conflict—principles like proportionality, necessity and right authority. It strikes me that these principles do apply to intelligence activity, which carries moral hazard, either because it involves human intelligence, with all the risks to individuals and their families, or because it involves intruding into people's privacy. Secret intelligence, in my book, is information that other people do not want you to have, so by definition you have to overcome their will. Therefore, by definition, there is always going to be some moral hazard involved in intelligence gathering. How do we tame this? Applying these time-honoured principles, such as proportionality and necessity, is one way of trying to do that.

Q628 Dr Huppert: If you do have a chance to have a look at the others, I would be interested in your comments on them and how realistic it would be to apply other sets as well. One of the six points is about proportionality. Point six says: "Recourse to secret intelligence sources must be a last resort". I think that is quite an interesting approach. I had a look through the various codes of practice from the Home Office. I cannot see anything that uses those words or anything I have spotted that is similar enough.

Professor Sir David Omand: I think there is a reference in one of the codes of practice on interception—you should look to see if you can find out the information without having to get a warrant, without interception. In other words, is it publicly available or whatever? I cannot remember exactly which code it is in, but I have seen such a reference. I agree with the thrust of your point, which is that it would be good to try to make these principles explicit. I hate to mention the Intelligence and Security Committee again, for fear of the Committee's response, but I did write to them and give them a copy of these principles and say, "These are the principles you should be applying when you are quizzing the agency heads."

Q629 Dr Huppert: There is some disagreement on exactly what mass surveillance means—whether it means looking at content or just processing and parsing large amounts. How do you fit the idea of very large-scale scanning of communications, at least, with the idea of only doing it as a last resort? It seems to me that if you are doing it so proactively, it cannot be a last resort as well.

Professor Sir David Omand: No. I think the judgment is that there is a class of information that is important for security—for example, pre-emptive intelligence on terrorism or serious crime—which you are very unlikely to get any other way than by intrusive investigation. You then say, "Where would we go to get this information?" Increasingly, it is information you will find on the internet, because that is where everybody is doing their communicating. Therefore, given that it is a global network and anyone's information is liable to pop up anywhere in the world, you inevitably get drawn—at least in the present stage of technology—into saying, "We are going to have to gather in an awful lot of this, a big haystack or set of haystacks, in order to try to find the bits we are looking for, the needles we are looking for". I think that is the kind of logic behind it, but you certainly should not be even going to start pulling out the needle if that is information you could have found out without intruding into somebody's privacy.

Q630 Dr Huppert: It seems that if you are doing a large-scale programme—I do not think anybody doubts that there are large-scale programmes—that means, when it comes to considering an individual, you are not looking for alternative ways of finding information about them. You are necessarily starting off with your last resort of collecting this information before you have even started considering that person. It is suspicious, surely.

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Professor Sir David Omand: On the face of the Act, the analyst does actually have to be able to demonstrate that what they are doing in trying to pull out a needle of some wanted piece of information, say from a computer that has been associated with a terrorist, is necessary as well as proportionate. It would clearly fail the “necessary” test if the information could readily be obtained, for example, by a Security Service operation directly with the individual. For a lot of this, it is the only way you will find it, if it is on the internet.

Chair: Thank you. I think we have spent quite enough time now on looking for needles in haystacks.

Q631 Paul Flynn: In 2004, Mr Abdel Hakim Belhadj, with his pregnant wife, was abducted from Bangkok Airport, flown to Gaddafi’s Libya and tortured. In 2005, Jack Straw denied that the British Government had any involvement in renditions. In 2011, Human Rights Watch discovered documents and published them which named the British MI6 agent who they claim had boasted about this abduction, and Jack Straw has subsequently said that he was advised by MI6 on this. No one would have the knowledge of this and the truth on this without Human Rights Watch. Many other matters we would not have the truth of if it was not for whistleblowers like Edward Snowden. Do you not agree that we do need the whistleblowers, and they do convey to the public the truth of what is going on, rather than listen gullibly as we are told—as I have been and as the Chairman has been—that there was no involvement with extraordinary rendition. We were lied to. Do we not need whistleblowers?

Professor Sir David Omand: Let me say that a true whistleblower, in accepted international convention, has to exhaust his remedies. For example, Mr Snowden could have gone to his employers—I understand why he would not do that; I would not press that point. He could have gone to the inspector general, the independent figure of his organisation. I would not press that point either. He could have gone to Congress. Just imagine if Mr Snowden—flanked perhaps by the editor of *The Guardian* and the editor of *The New York Times*—had walked into the Congressional Oversight Committee and said, “The White House has kept from you and the Executive have kept from you knowledge of a massive programme of collecting data on American citizens.” There would have been a huge political stink. I am quite sure President Obama would have been forced to issue the sort of statement that he issued a few weeks ago.

Paul Flynn: He has.

Professor Sir David Omand: Mr Snowden would have achieved his objective and he would not have had to steal 58,000 British top-secret documents or 1.7 million—

Paul Flynn: There is very little time, so can I just make two points?

Professor Sir David Omand—he did not do that, so in my book he is not a whistleblower.

Q632 Paul Flynn: Monsieur Dick Marty, who is a very distinguished Swiss MP, who was described by a

Foreign Secretary here to me as being a madman—he was not; I know him very well. He was the person who very bravely took up this issue in Europe. Successive British politicians denied what was going on. The question is: do we not have to rely on the whistleblowers, on the Dick Marty, on the Human Rights Watch, to get the truth? Otherwise we live in ignorance, as politicians and the public. Of course they supply this service to us, surely.

Professor Sir David Omand: I believe in a free press. Under no circumstances will I want to muzzle the press. If they can perform a public service in exposing wrongdoing, let them do that. In a well-regulated democracy, you don’t have to rely on the media.

Chair: Before we close, we do need to make progress.

Q633 Ian Austin: Do you share my incredulity that Members of Parliament regard someone who flees to China and then Russia as a source we are taking seriously on internet and press freedom?

Professor Sir David Omand: I, too, swallow hard when I hear these arguments.

Q634 Ian Austin: Would you agree with me that in the past, when intelligence personnel have fled to Russia with sensitive information, they have generally been regarded as traitors and not whistleblowers?

Professor Sir David Omand: That is certainly true. I do think that Mr Snowden did have a cause. His cause was what he believed to be the unconstitutional collection of data by the US Federal Government on Americans—not about spying on anyone else—and he is in a long tradition of American libertarians who have not liked the idea of big government. He could have achieved that objective, the whistleblowing objective, without—

Q635 Ian Austin: Briefly, I agree with you about that, but the question is not whether he had a cause. You could argue that Blake and Philby and Maclean and Burgess and all the rest of them had a cause. The question is: is what he did justified, or has what he has done put the security of public servants who protect the rest of us at risk? That is the question, I think.

Professor Sir David Omand: I am sure you are right in your conclusion on that. Absolutely that is what has happened.

Q636 Lorraine Fullbrook: Sir David, I would like to ask about narcoterrorism. In north and particularly west Africa, there appears to be a high degree of synergy between terrorism and drug smuggling. Do you think there has to be more resource focused on the illicit drugs trade, or do you think the profits from this drugs trade are negligible compared to other forms of terrorist revenue, for example kidnapping of foreign nationals?

Professor Sir David Omand: It is only my impression, but I think I am more concerned about the connection between terrorists and serious organised criminal gangs in relation to the crossing of borders and smuggling of materials such as weapons than the financing of terrorist groups—if you remember that appalling attack in Spain, the Atocha attack, where the

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explosives were obtained from criminal sources. In future, too, it will be cyber-criminals who are exploiting the internet for gain, but who might be prepared to pass their techniques on or sell their techniques on for terrorist purposes. I think the nexus that you are talking about between serious criminality and terrorism is one to take extremely seriously.

Chair: We have a final question from Mr Ellis. If you can make it as brief as possible, please, which I am sure you will do.

Q637 Michael Ellis: Sir David, just further to Mr Austin's very good points—if I may put it that way—Snowden was no whistleblower, was he? He was a traitor—a traitor to his country—but also someone who, irrespective of what options were available to him within the American system, stole 58,000 documents that were classified as secret and top-secret by the British Government. He thereby endangered British lives and British interests and British treasure, and did so without regard to the other recourses open to him that were not illegitimate. Would you agree with that?

Professor Sir David Omand: Yes, I would.

Mr Winnick: You surprise me.

Q638 Michael Ellis: Some of my colleagues on this Committee cannot resist interrupting my questions for some reason, Sir David—I wonder why that might be—but let us carry on.

Sir David, do you also agree with me that—contrary to the paranoid reaction of some about the surveillance state that you have already referred to—those who seek to defend this country and its people from terrorist activities and hostile forces should be commended and applauded, and that the work of our security and intelligence community is exemplary when compared with those equivalents around the world? Would you agree with me that this is an opportunity for you to commend the excellent work of those men and women?

Mr Winnick: What do you say to that?

Professor Sir David Omand: I am very happy to say I am proud to have been associated with that group of people. *[Interruption.]*

Chair: Order, Mr Winnick.

Professor Sir David Omand: Can I just add, though, there is a serious category error in the reporting of the

Snowden case, which is to confuse bulk access to the internet with mass surveillance of the population? These are different things. There is no room filled with analysts at GCHQ conducting mass surveillance on the population, but it is now known publicly that they have very considerable bulk access to data on the internet. I believe that is what they need in the 21st century to get the targeted intelligence they are looking for, but it is not mass surveillance.

Michael Ellis: Thank you.

Q639 Chair: On the “Today” programme on 7 November, you said, about our collaboration with the Americans, “We have the brains and they have the money. It is a collaboration that worked well”.

Professor Sir David Omand: It was a joke.

Q640 Chair: But as far as you are concerned, that is the central part, is it not, of the way in which we do our intelligence: it is collaboration with Governments that work with us and the sharing of information.

Professor Sir David Omand: It is a remark that has a long historical resonance, going back to Bletchley Park, when the United Kingdom discovered that it had the brains—it had the ability with people such as Alan Turing—but it simply did not have the means to produce enough of the machines he designed that would deal with the volume of material, and therefore the secrets were entirely shared with the United States, who provided the resources, to very good effect. Ever since then, given they are five times our size, we have been in a position where we have been able to hold our own with innovation, with brainpower and with access. They have been able to resource things—ideas that we have had—but that we simply did not have the public expenditure to develop.

Q641 Chair: There were no complaints from them that they also had some brains?

Professor Sir David Omand: No. No altercation whatever.

Chair: Sir David, thank you very much for coming to give evidence today. You have been very helpful to the Committee. I am most grateful. Thank you. Could we have Sir Antony May, the Interception of Communications Commissioner?

Examination of Witnesses

Witnesses: **Sir Antony May**, Interception of Communications Commissioner, and **Joanne Cavan**, Chief Inspector, Interception of Communications Commissioner's Office, gave evidence.

Q642 Chair: Sir Antony, we are going to canter through these questions if we can, and we are going to exercise great self-discipline on this side of the dais. I want to start by asking you about whether the Government has allowed the Intelligence and Security Committee to have access to the confidential parts and confidential annexes of your reports.

Sir Antony May: I am afraid the literal answer to that is I do not know, but can I explain the background to that? I hope you do not mind if I—

Q643 Chair: We do not need background; it is either a “yes” or a “no”. If it is a “no”, then would you write to us and tell us when this happens?

Sir Antony May: I can give a more helpful answer than that. I was appointed in January 2013. After my appointment, the report that my office is required to produce for the Prime Minister for 2012 was produced, and it had a confidential annex. The question arose in the ISC, at a meeting that I attended, whether the ISC could be shown that confidential

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annex, to which the answer I gave was that I was perfectly content on Sir Paul Kennedy's behalf that they should have it, but that the final say should be with the Prime Minister, because the Prime Minister would—

Q644 Chair: Where does that leave us today, then, in answer to my question, "Have they received the report?" You are quite happy for them to receive the confidential annexes.

Sir Antony May: Yes.

Q645 Chair: You then passed it over to the Prime Minister, so is it with him?

Sir Antony May: I think it must be with him. We have made inquiries, and I am afraid we do not have—

Q646 Chair: You made inquiries of whom?

Sir Antony May: Of the Cabinet Office.

Q647 Chair: I will now write to the Prime Minister, asking him what has happened to the confidential parts of the report.

Sir Antony May: That would follow up where we have got to.

Q648 Chair: I will send you a copy so you are aware of it.

Sir Antony May: Thank you very much.

Q649 Dr Huppert: There are a number of questions I have, but what do you think about the capacity that you and others have? The Chief Surveillance Commissioner, Christopher Rose, has commented that he does not have any capacity left. How is your capacity?

Sir Antony May: I would just like to say that I am in the process of busily writing my report for 2013 to go to the Prime Minister. I am intending to do this at a substantially earlier stage in the year than has occurred in previous years. That report deals with a number of matters, and it includes addressing requests as to whether my office and I have sufficient resources to undertake the statutory functions that are imposed upon us. That is an introduction. It will be in some greater detail perhaps than I can give this afternoon in this report, which we will deliver to the Prime Minister, and I hope it will be laid before Parliament before Easter. I can go on, if you would like me to.

Dr Huppert: Yes, that would be helpful.

Sir Antony May: The office that I inherited when I took office had myself, Jo Cavan, my chief inspector, five inspectors and two office staff. This was very shortly after the parliamentary Committee that had scrutinised the Communications Data Bill, which I think at least two of the members of this Committee were members, had looked at the sufficiency of my office and my predecessor's team to inspect communications data, in particular under part 1, chapter 2 of RIPA. The recommendation of that Committee included that we should inspect at least the large law enforcement agencies and everybody else who acquires communications data on an annual basis, rather than slightly longer as had happened in the past.

The Communications Data Bill did not go ahead, but that was a recommendation that I picked up almost immediately that I took office. I decided then—this was about a year ago—to implement that recommendation, to which end we needed more inspectors, and during the course of 2013 we recruited three extra inspectors.

Q650 Dr Huppert: This is helpful. For example, of the 570,000 requests for communications data, how many of those were you able to assess?

Sir Antony May: It is an extremely difficult question, for reasons that, to do it fully, require some detailed explanation. I think this has been explained to this Committee in written evidence by Charles Farr, but it goes something like this. In a sense, 570,000 is a misleading number, because it is 570,000 authorisations and notices under section 21 or 22—whichever it is—of RIPA, but that does not, for instance, tell you how many applications there were, nor does it tell you how many people that referred to.

Q651 Dr Huppert: I think we do understand that, and it is astonishing that the Home Office does not know how many people it relates to or any of the information you highlight. Presumably, you will have looked at a certain number of the applications or the authorisations.

Sir Antony May: Yes.

Q652 Dr Huppert: Your colleague is nodding. How many is that? Is it half of the 570,000?

Sir Antony May: No.

Q653 Dr Huppert: Is it one-thousandth of it? How many is it?

Sir Antony May: It is somewhere between 5% and 10% of not the 570,000, but the applications.

Q654 Dr Huppert: Which is a larger number.

Sir Antony May: Which is a smaller number—a substantially smaller number—because research has been done, Jo has undertaken research, so has the Home Office actually, which has produced the approximation that the number of authorisations and notifications result from about one-third the number of—*[Interruption.]* That is put very badly, I am sorry.

Q655 Dr Huppert: Are you saying that we do not know how many applications there are and you have to estimate it?

Sir Antony May: Yes, and the reason—

Q656 Dr Huppert: It is astonishing that there is no log kept of each application, each authorisation, otherwise—

Sir Antony May: Yes.

Joanne Cavan: There is no doubt that the information is available within the public authorities, but it is not easy to extract that information because there are certain statistical requirements in the code of practice that the public authorities are mandated to report to us. Unfortunately, the number of applications is not one of the current statistical requirements; so, as a

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result, their systems have not been built around those statistical requirements, so—

Q657 Dr Huppert: It seems perverse that they do not keep track of that, and I hope one of our recommendations will be that they do tell you how many applications there are.

Joanne Cavan: It is something we have been looking at this year, and we have conducted a short sample with a number of the larger law enforcement agencies, and that is how we can equate. We did report in last year's annual report we can equate that it is approximately between 3 and 3.6 notices and authorisations on each application.

Q658 Dr Huppert: Would you like us to recommend that it be made clear that the information on applications, authorisations and number of people involved be made available to you because that would really help with your job?

Sir Antony May: Yes.

Joanne Cavan: Certainly. We did write in our annual report last year that that is one of the statistics that should be collected.

Q659 Dr Huppert: On RIPA itself, do you have a take on whether it is currently fit for purpose—whether the definitions in it are clear and usable—or do you struggle with it? Do you think it needs to be updated in any ways?

Sir Antony May: If I may say so that is a very large question that I am going to address to the very best of my ability in this report, which I am going to produce in April. It is a very big question and it has two preliminaries. The first is that, as I think everybody knows, it is an extremely difficult Act of Parliament to get your mind around. I do not envy anyone who tries to do this if they have not spent a great deal of time on it. Therefore, it is really quite difficult to start from what I regard as the most important starting point; that is to say, to understand where we are at the moment. As your previous witness has touched upon, there is quite considerable misunderstanding about where we are at the moment.

The second difficulty, which we are stuck with, is the other side of the picture—that is to say, what the intelligence agencies, the law enforcement agencies, Her Majesty's Revenue and Customs, the Ministry of Defence and the other agencies that have power to apply for interception warrants actually do. What they actually do is subject to extreme provisions of sensitivity, so one cannot just write down and tell the public what goes on. However, what I am attempting to achieve in the report that I am writing at the moment, is a greater openness on that subject than has happened in the past.

Q660 Dr Huppert: Is your report—which we look forward to very much—likely then to support a rewrite of RIPA to make it clearer, as you are suggesting? Is that something you would want to see?

Sir Antony May: There is a paragraph in the current draft—I do not promise to leave it there, but I can tell you about it—which says that I do not really see the justification for Parliament spending a lot of time

trying to rewrite RIPA part 1 to make it clearer and for no other purpose. It just seems to me to be a waste of parliamentary time. It is a difficult subject, and one would not just set about saying, "Here is a better version of what we have"—

Q661 Dr Huppert: But you would to change it?

Sir Antony May: Yes. If there were major changes, then it might well be a good idea to try to simplify what we have.

Q662 Chair: Thank you. In 2012 there were 570,135 notices and authorisations for communications data. In that time, 979 data errors were reported to your office.

Sir Antony May: Yes.

Q663 Chair: Thirty-three of those errors were identified during inspections.

Sir Antony May: Yes.

Q664 Chair: Why was it so low?

Sir Antony May: Because the agencies report nearly all the errors that they make.

Q665 Chair: But why is your office not able to identify more errors? Only 3% of the overall errors in notices were identified by your office. What is the point in having all these people working for you when the vast majority of the errors are notified to you and you do not find them out yourself?

Sir Antony May: The inspectors are doing very, very much more than simply looking for errors. That is just part of what they are doing. Why weren't there more of them? Because all the agencies have a statutory obligation to report their errors to my office, and they do so. The fact that they—

Q666 Chair: This does not cause you concern, the fact that you have only picked up 3% of the errors?

Sir Antony May: No.

Q667 Chair: Previously, the offices of—

Sir Antony May: I am so sorry, Chairman, if I might say, it is not that we "only" picked up 3% of the errors; the 900-and-something have all been reported to us in advance of the inspections.

Q668 Chair: Previously, the offices of the Intelligence Services Commissioner and the Interception of Communications Commissioner published the breakdown of the outcome of cases heard by the IPT. This is no longer the case, and the last time it was published was in 2011. Why is such information no longer being made public?

Sir Antony May: By the tribunal?

Chair: Yes.

Sir Antony May: I am not aware that that happened. I am sorry if I did not, but I do not have access to the proceedings of the tribunal unless—

Q669 Chair: Sorry, Sir Antony: by the offices of the Intelligence Services Commissioner and your office, Interception of Communications Commissioner. We

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have not had a statistical breakdown since 2011. Are we wrong?

Sir Antony May: My office is separate from the IPT.

Q670 Chair: No, I understand that, but your office has not published any statistical breakdown of cases since 2011. Ms Cavan, why not?

Joanne Cavan: When you say “statistical breakdown of cases”, can you elaborate on what you mean by “cases”, please, Chair?

Q671 Chair: The cases that you considered in 2011.

Joanne Cavan: In terms of during the inspection, the investigations we have looked at or the applications? What do you mean by “cases”?

Q672 Chair: All of them. Do you publish all of that?

Sir Antony May: The question surely, as it relates to—

Q673 Chair: Do you publish all of that information?

Joanne Cavan: We publish all of the information around the findings of our inspections and the frequent recommendations that we make. We publish the total number of notices and authorisations that are reported to our office. We have not as yet broken down the notice and authorisation figures into individual public authorities, so if you are talking about the usage statistics for each public authority, to date we have not published that.

Q674 Chair: The Investigatory Powers Tribunal sits in secret for the majority of its proceedings, and has only found in favour of 10 complainants in the 1,468 reported cases that it received between 2000 and 2012. Only 10 complainants. Do you think that that commands public confidence? If not, is it the fault of the tribunal or Parliament?

Sir Antony May: Could I first make absolutely clear that my office had no direct communication with the tribunal? The tribunal does not tell us what they are doing. The only obligation that I have, as Commissioner, in relation to the tribunal is to provide them with assistance if they ask for it. In the whole of my time of 13 months as Commissioner, I have received no request from the tribunal for assistance. Accordingly, I am able to say to you that I really do not know what the tribunal is doing, and there is no reason why I should.

Having said that, the circumstances in which the tribunal operates—this is just a comment from me—are laid down by statute, and I would have thought that if Parliament reckons it is unsatisfactory, Parliament would do something about it.

Q675 Chair: So it is the legislature. Going back to my previous question, previously your office used to publish the cases of the IPT, but it no longer does so.

Sir Antony May: Certainly under present conditions, there is no basis whatever for my office doing so. My office is completely separate, now, from the IPT. Whether two or three years ago there was some communication between the two so that we published something that they told us about, I am sorry, but I simply do not know.

Q676 Lorraine Fullbrook: Oversight of the intelligence agencies is dispersed among various bodies. There is yourself, the Intelligence Services Commissioner, the Investigatory Powers Tribunal. Would it not be simpler to have that oversight under one umbrella and concentrate it in the single office of the Inspector General, as has happened in many other countries?

Sir Antony May: This was a question that was raised, as you will know, in the Green Paper that preceded the legislation last year. It was not taken forward, but there is a whole annex to that Green Paper that raises the possibility of having an Inspector General. I was not central to the considerations that led to that not being taken forward when that legislation was taken forward, but I am told that it was considered to be difficult and perhaps unnecessary.

Q677 Lorraine Fullbrook: Both of you will have a personal opinion on this, so what would that be?

Sir Antony May: I think as follows. As you know, broadly speaking, my statutory responsibility is limited to overseeing what happens under part 1 of RIPA—that is to say part 1, chapter 1, interception of communications, and part 1, chapter 2, communications data. This is a confined and well-defined operation, which, now that I have spent 13 months finding out all that I need to know about it, it seems to me is an operation that a single commissioner ought to be able to look at and look at properly. Whether we do or not is for other people to look at, but it seems to me to be a parcel that is usefully undertaken by one commissioner.

The suggestion that the intelligence services or a wider spectrum of the subject matter we are talking about should be under aegis of a Registrar General, or something like that, would mean a different structure and a much larger structure. One consequence of that—at least one possibility that was discussed in the Green Paper—was that the interception of communications part of RIPA, part 1, chapter 1, which I currently oversee, should be removed from my oversight and taken, for instance, to a Registrar General or the Intelligence Services Commissioner or whatever. That might be a good idea, it might not be a good idea, but one consequence of it would be that the interception side of the entire spectrum would be split in two, because we do not just oversee the intelligence services; we oversee six other agencies as well. It seems to me at any rate that that is an operation that ought to be kept together.

There are other considerations, but one opinion that perhaps I might venture—it is only an opinion—is that it is quite important, I think, to have a commissioner or commissioners who have a function for which they can take personal responsibility.

Chair: We do have to speed up.

Lorraine Fullbrook: Yes, I will do.

Sir Antony May: If I could just finish the sentence, if you do not mind. I think if there were a Registrar General overseeing a wider spectrum of operation, that personal responsibility would be diluted.

Q678 Lorraine Fullbrook: Ms Cavan, given your current position and your previous positions, what

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would your view be of a single umbrella, either personal or organisation?

Joanne Cavan: My personal opinion would be that it would be very difficult for one person to build up the technical expertise and knowledge across all of the activities. I think it works very well at the moment to have specialist teams looking at interception, communications data and surveillance.

Lorraine Fullbrook: Lovely. Thank you.

Q679 Dr Huppert: Presumably you are both aware of section 94 of the Telecommunications Act 1984, which gives powers to the Secretary of State to give such direction of a general character as appeared to be necessary in the interests of national security or relations with the Government of a country outside the United Kingdom. Do you supervise how that is used, and if not you then, who does?

Sir Antony May: The Telecommunications Act does not provide for oversight by me, just as the Intelligence Services Act does not provide for oversight by me of the intelligence services that—

Q680 Dr Huppert: Who does check it? It seems in the Act that there is absolutely no supervision at all of it. It is not revealed to Parliament in almost any circumstances; it is not revealed to you. Ms Cavan, do you have any experience as to who gets to check that this is used appropriately? If there are no oversights, all sorts of things could be happening.

Sir Antony May: I know the terms of this section, and it is very wide. As you know, the terms of it prevent disclosure unless the Secretary of State lays what she is doing before Parliament. I think perhaps one ought to say that, to the extent that I am not going to talk about at all that she might or might not use that, we would all be prevented from talking about it.

Q681 Dr Huppert: Ms Cavan, you have been in various areas. Do you know of anywhere where this is looked at?

Joanne Cavan: I do not. I am not aware in the Telecommunications Act whether there is any specific oversight built into that Act.

Q682 Mr Winnick: Can I just clarify the position? I think you heard the last witness reply to one of the members of the Committee and speak about the role of whistleblowers and what should be done. He more or less said, “If Mr Snowden”—this is the American scene—“had gone to see the American President,” et cetera, et cetera. I listened very carefully indeed to that answer. What would be the position in the UK? This is what I am not quite clear on. If you will clarify that for me, and I know that you took over your job at the beginning of last year. Is that correct? Yes. I do not want to be patronising, but you certainly have the most distinguished legal background. What I want to ask you is: if someone is dissatisfied in the security services, is it to you as the Commissioner that that person would go, or to the organisation as such—to the IPT?

Sir Antony May: Under the legislation, there is no clear indication that someone who was troubled should come to me. I would rather not expect them to

do so. So far as I know, they could certainly go to the IPT, but they would have to formulate it, I guess, in terms of a complaint to be adjudicated upon, or something like that. I am not really very familiar with this, but I think that whistleblowing is a subject that has been dealt with—as I am sure you will know—by the report that President Obama received quite recently. I am talking from memory, but I think I am right in saying that the tenor of the report was that there should be a structure set up by legislation, which would enable people in that situation to make their point in an appropriate way. That is America. I do not know what would happen here, but there are obvious routes that somebody like that could take.

Q683 Mr Winnick: I do not think you were in the room when I was asking questions about the comments of the then Master of the Rolls when he said, “Some security officials have a rather dubious record”. That would have been in 2010.

Sir Antony May: No, I was in the room.

Q684 Mr Winnick: Yes, but you were not in your present position.

Sir Antony May: I was not sitting here.

Q685 Mr Winnick: The criticism probably would be: should the commissioner have then taken up not the allegations, but the judgment made by the Master of the Rolls and investigated accordingly? Would that be the position?

Sir Antony May: Is this in the Binyam Mohamed case?

Mr Winnick: Yes, the Binyam Mohamed case.

Sir Antony May: I was a member of the Court of Appeal that decided the Binyam Mohamed case. Judges normally do not talk about cases that they have decided, and in effect say, “I have written my judgment; you can read my judgment and I have nothing more to say”. Having said that, two and a half years later—I have not read the judgments recently—I do not remember that the Master of the Rolls may have said that. What I do know, which is probably fairly obvious from the judgments, is that the three of us wrote separate judgments. I did, and I am pretty confident that I did not say what you are reminding me of what the Master of the Rolls said. Having said that, frankly, my memory does not assist me to be able to answer the question further; I am sorry.

Q686 Mr Winnick: In your present function, if a situation arises in the future, where allegations are made—or more than allegations, because the Master of the Rolls was not making an allegation; he was making a judgment, as I understand it, and you were involved in the court—should the commissioner then say, “Well, something has gone wrong; it is my job to investigate accordingly”, or not?

Sir Antony May: If it is within that commissioner’s sphere of responsibility and if it is sufficiently serious. If I may say so, I am going to be doing that sort of thing in my report in relation to some of the Snowden allegations.

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Q687 Michael Ellis: Ms Cavan, can I ask you first of all? You have given evidence, have you not, as a forensic telecommunications expert in court, both for prosecutions and defence? I want to ask you generally about your opinion of communications data and the value of that. In your assessment, do we need to be able to resource communications data—the who, the when, the how—as opposed to the content, which of course communications data does not relate to? If we had such ability to access communications data, would it put us on an equal footing with the data that we can already access about telephone records, for example?

Joanne Cavan: In my personal opinion and from previous experience working on investigations and giving evidence in court, communications data is a vital tool for prevention and detection of crime, and also for national security and other purposes. I think it is very useful to give corroborative evidence, and there are also a number of cases I have worked on where it has assisted the defence or undermined the prosecution case as well.

Q688 Michael Ellis: It can exculpate people who are accused of offences, as well as inculcate them?

Joanne Cavan: Yes.

Q689 Michael Ellis: The same question to Sir Antony: do you agree? Is it your assessment that communications data would be a vital tool in evidence, both for the prosecution and defence?

Sir Antony May: There is no doubt about that at all. I just have one, as it were, gloss on that—it is not a

gloss; it is unequivocal. 570,000 is a very large number. The equivalent number this year looks as if it is going to be rather less than that, but it will still be above 500,000. I have a feeling that it is not only very large, but possibly, overall, too large. The difficulty is this—and I am really quite keen on this. You can look at individual applications over and over again, asking the question, “Are they necessary for a statutory purpose? Are they proportionate? Could this be achieved by other reasonable, less intrusive means, and what is the intrusion that is going on?” You can get an answer: yes, yes and yes.

Chair: Thank you. The final question, please.

Q690 Michael Ellis: I am sorry about the time pressure, Sir Antony, but the number, you say, is large—and it certainly sounds large when one puts it as a block figure—but surely one has to compare it to the amount of data that is in the ether, so it is a percentage of how much is in existence that is the relevant figure, not the bold figure in itself. Would you not agree?

Sir Antony May: You would have a very large number of noughts after the decimal point.

Michael Ellis: Exactly. Thank you very much, Sir Antony.

Chair: Sir Antony and Ms Cavan, thank you very much. I am sorry we have run a bit over time, but we are most grateful to you. We will write to the Prime Minister about the confidential parts of the report, and we might have a copy in reply.

Tuesday 25 February 2014

Members present:

Keith Vaz (Chair)

Nicola Blackwood
Mr James Clappison
Michael Ellis
Paul Flynn
Lorraine Fullbrook

Dr Julian Huppert
Yasmin Quereshi
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: **Richard Barrett CMG OBE**, Senior Director for Special Projects, Qatar International Academy for Security Studies, and Senior Vice-President, the Soufan Group, gave evidence.

Q691 Chair: Could I call the Committee to order and refer all those present to the Register of Members' Financial Interests, where the interests of members of this Committee are noted, and could I remind the Committee that we are having this evidence session as part of our inquiry into counter-terrorism?

Richard Barrett, thank you very much for coming. You have flown all the way from the United States, and we are most grateful for that.

Richard Barrett: It is a pleasure to be here.

Q692 Chair: We, of course, as a Committee have very good knowledge of the Soufan Group and we were grateful to Mr Soufan for arranging for our visit to your centre in Qatar. That was as a result of a previous inquiry; we are now looking at counter-terrorism as a whole. Could I start with the issue of so-called foreign fighters, British citizens who are going abroad to fight in Syria? There is an estimate that 366-plus British citizens have gone abroad. The concern is that when they come back, they involve themselves in domestic terrorist activities. While they are abroad, they are involved in terrorist activities to do with Syria, as in the case of Mr Abdul Waheed Majid, who is the first British citizen to die in a suicide bombing. What can we do about these foreign fighters leaving the country?

Richard Barrett: My own view is that we need more analysis of the nature of this threat. You are absolutely right that hundreds of people are going from Western countries and, indeed, many more from non-Western countries, to Syria to join rebel groups. But although there has been some sort of effort at making a numerical assessment of the foreign fighter phenomenon, there has not been very much opportunity yet to make a qualitative assessment of what it means to go and fight, and what it means to come back. If you think of the people who have returned, one would have to say, "Why did they return?" Were they horrified by what they saw, or inspired by it to go and do something in their home country?

I think the assumption that everybody who goes abroad to Syria to join a rebel group and fight is inevitably going to be a terrorist threat when they come home, if they do come home, goes much too far. I think you had Thomas Hegghammer talking to you not very long ago, and his examination of the historical experience of people going to battlefields

abroad to fight and coming home was that it was a strong indicator of the possibility of terrorist action in the future, but maybe about one in nine or so of those people were involved.

Q693 Chair: Do you subscribe to that one-in-nine ratio?

Richard Barrett: I respect Thomas and I respect his research, but I think with Syria it is a little different. Look at all the videos and everything pushed out by people in Syria. You mentioned some British people who were there, and certainly there are several British people who put videos on YouTube with them holding an AK47 or whatever—you know what I mean—encouraging their friends to join them. That to me suggests that this is more bravado. This is more, "Look what I am doing. Why don't you come and join us? It's a great adventure" type of thing, rather than, "Come here and train to be a terrorist so we can"—

Q694 Chair: There has been reported criticism of the jihad tourists, and those who are there as hardened terrorists have tried to stop them coming. But one way they can be stopped from going is, of course, by seizing their passports. I do not know if you know that Moazzam Begg, who was one of those in Guantanamo Bay, was arrested earlier today by the West Midlands police, and his passport was removed by way of royal prerogative. Presumably these people are being watched by the security services, so there is a way of preventing them travelling by removing passports.

Richard Barrett: Yes. I think it is difficult, though—is it not?—with all counter-terrorism to have laws that are enacted against somebody or to somebody's detriment before they have committed a crime on the worry that they might commit a crime. That rather flies in the face of fundamental rights. Nonetheless, I am sure the security services are very aware of people who are already high-risk, and who may be planning to go abroad. Similarly, when they come back, they need to be able to focus their attention on those people who might be a significant risk rather than everybody, because obviously the resources you would need to cover everybody would be impossible.

Q695 Chair: On the BBC News on 30 January, you talked about the necessity of focusing, and taking a much more targeted approach, rather than the wider

approach adopted by the Americans. Do you think we have that targeted and focused approach here?

Richard Barrett: I am not so familiar with what is being done here, but the security services, of course, have to focus their approach because of their limited resources. I am sure they are looking for as many ways as possible to make that focus as sharp and as accurate as possible. The Soufan Group, as you mentioned, are starting a project funded by the Dutch Government to try to survey what the groups are in Syria. What does it mean to say you joined Ahrar al-Sham or Jabhat al-Nusra or something? What does it mean? You have some sort of baseline understanding when somebody comes back and they say, "I joined that group rather than that group." You can quantify what the influences are, what the ideology is, what the objectives are. Then at the same time try to do a survey in countries where fighters have returned from Syria, to try to ask them or ask people who know them, "Well, you know, how has this guy changed? What are his thoughts about his own country?" That may not be particularly useful, but I think it will help in looking for indicators—red flags, if you like. That might help focus.

Q696 Chair: Let us move from the individual to the global and the issue of capacity building. We have taken evidence from many people and many groups. The concern I have is there seems to be no international structure to deal with terrorism. You have, of course, Interpol; Interpol was involved in the efforts in Algeria to rescue the hostages there. There is Europol, dealing, of course, with the EU countries. But there seems to be no international arena where countries can come together to deal with this terrorist threat. Do you think there ought to be an overarching structure that deals with counter-terrorism?

Richard Barrett: Interpol and Europol, and police forces generally, co-operate around the world to discover, detect and prosecute criminals, so people who have performed a criminal act under international jurisdiction, in the case of Interpol or Europol perhaps, do fall under that. But when you have the amorphous threat of terrorism, I think there has to be some sort of slightly different association. You get, of course, very close collaboration between intelligence and security services around the world that is not structured in the way you say, although there are informal structures.

If you are suggesting there might be a formal international structure beyond the United Nations—and the United Nations, of course, tries to set up these structures—I think they would have to focus on issues like why people are becoming terrorists, and what you can do to help the capacity of countries that are particularly vulnerable to terrorism, rather than dealing perhaps with counter-terrorism itself, which sounds more muscular.

Q697 Chair: It should be part of the UN, rather than a newly created organisation?

Richard Barrett: I would have thought so, yes, and that means it comes much more into the rights area than the coercion area.

Q698 Chair: Finally, the Government, in their evidence to us, said that they had set up a fund, a £30 million counter-terrorism programme fund. Are you familiar with what this fund does?

Richard Barrett: There are several funds set up, as you know. There is a UN Counter-Terrorism Centre now that has been promised \$100 million by the Saudi Government.

Q699 Chair: I am talking about our Government.

Richard Barrett: Your Government? I am so sorry. I do not know what the UK does, but I think that every action a Government takes can be read into the terrorist narrative. If you have a huge military spending budget, for example, and you are militarily active, that can be seen as maybe in a way a counter-terrorist action and a pro-terrorist action. If you have a big social welfare programme abroad or something—a huge fund for that—that could be seen as a counter-terrorism measure as well. Giving labels to funds and activities I think is quite difficult.

Q700 Chair: Yes. Would you tell this Committee that capacity building is very important, as far as reducing the threat of terrorism goes?

Richard Barrett: Capacity building in some areas I think is very important. I think it is very important to encourage people to act by the rule of law and so on, of course, building capacity overseas from the point of apprehension to the point of verdict, if you like, so that the treatment is correct. A terrorist, after all, sees the state as his enemy, and therefore if the enemy is responding to the terrorist in a way that they would respond to any citizen, that slightly undermines the narrative. We know, of course, of examples of people who have been rather surprised by their treatment by Government in a positive way, which has tended to de-radicalise them. Similarly, of course, if you treat people badly, they become more radicalised. I think capacity building just in the sense of awareness and understanding is enormously important.

Q701 Mr Winnick: Recognising the dangers of those who go to fight in Syria and then come back with an aim of inflicting terror in their own country, namely Britain, is there not a possibility the other way round: that those who may go with the best of motives because they feel very strongly about the disastrous and monstrous Assad regime find among the jihadists that it is rather different from what they thought—the divisions, the extremism, the contempt for human life? Is it not possible that some of those people coming to that view will come back with a very different view, not about the Assad regime but about the sort of people who went out to join?

Richard Barrett: Absolutely; I could not agree with you more. I think that is very true. Some people can go out there and become brutalised, dehumanised, and radicalised by the company they keep, and other people can be revolted by that and say, "I do not want anything to do with this."

Q702 Mr Winnick: Since it is 100 years since the First World War and that has been already spoken about, I will refer to the other war, which took place

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in the 1930s. It is a fact that many who went out as communists, and in some cases took leading positions as communists, came back to Britain no less anti-fascist. Their hatred of fascism remained but they were anti-communist—not simply Orwell but others. As I say, they were perhaps not great in number, but they saw the brutality and how, if you like to use the term, the Stalinists behaved in Spain and their contempt for human life. This could be the same possibly with those going out to Syria.

Richard Barrett: Yes, absolutely, and all the recruitment videos you see are about the glory of fighting and all this, and it is all wonderful. It is a bit sort of TV, in that there is no blood, there are no injured, there are no grieving mothers or abandoned children or anything else like that. But the reality of any conflict, of any fighting, of course, is not that; it is quite different from that, and I think that, indeed, many people, one would hope, would come back completely disillusioned by pursuing politics in that way. Although on the other hand, as you say, the Assad regime is—barrel bombs have been declared a war crime now by most observers and this is also a horrific thing that you may feel you want to resist and fight against.

Q703 Yasmin Qureshi: The Chair mentioned capacity building. How would we measure the effectiveness of capacity building projects?

Richard Barrett: I think it is an enormously important question, really important: how do you measure impact? I do not mean to say you should not do something because you cannot measure the impact, but I think you should make absolutely every effort to measure the impact, because after all you are talking about taxpayers' pounds or whatever, and this should be spent responsibly.

One of the problems around funds and projects and so on that are designed away from the country that is to be the beneficiary is that, first of all, the designers are not closely enough in touch with what is going on on the ground, but nor are the implementers—or, furthermore, the people measuring the impact. It is very difficult to say whether something was effective or not, and I think the more you can get your funds into the hands of local partners who are working on the ground in the community and measure what happens as a result of that work, clearly the better. That means you are not spending £30 million, but you are spending maybe £30,000, because there are community groups who cannot absorb huge amounts of money. Then there are all sorts of knock-on effects about administrative costs and everything else. I agree with you: I think it is absolutely fundamental that we find better metrics for deciding whether these counter-terrorism programmes are effective or not.

Q704 Yasmin Qureshi: Can I ask you to give an example of where perhaps there has been successful evaluation of the effects, and some situations where it is impossible to work out whether any measures have been ineffective?

Richard Barrett: In countering terrorism, because you are trying to stop something happening, you can never tell how successful you have been. It goes without

saying, but I think conceptually you can think, “Okay, I want to do capacity building on border security”. You might say that Mali is a problem. Mali has a border of about 7,500 kilometres. Most of it is straight lines. Most of it follows no geographical feature or anything else like that. In most of it, the families and the tribes move across without noticing they are in one country or another. What does it mean, therefore, to do border security? What sort of impact are you expecting from that?

If you are saying, “I want to make sure that anyone coming through the airport is properly documented,” well, that is okay. But then you might say, “Is that going to impact on the terrorist threat coming out of Mali or going into Mali?” Whereas if you are doing a project of, say, leadership skills or critical thinking skills or vocational training or something like that in the community, you can see some impact, because the economy might build up slowly in the community. People might be less radical in their attitudes. They might be more questioning of the things that people told them and so on, so you can say, “Yes, we can see that this is having an effect”.

Q705 Michael Ellis: Mr Barrett, as far as the United Kingdom's justice and human rights partnership programme is concerned, do you think it is sufficient, from what you know, in terms of capacity building, as we have been talking about that, or is there more that the UK Government could do? I know to a large extent there is always more that any Government can do, but how do you rate the sufficiency, in terms of capacity building at the moment? There have been suggestions from some quarters that developing more resilience in areas such as border security and anti-corruption would benefit the whole global counter-terrorism effort. Do you think the UK is particularly well placed to undertake this sort of work?

Richard Barrett: In some areas, yes, they do. For example, if you think of Pakistan, where a lot of the UK aid goes, there is a very close historical link between the United Kingdom and Pakistan, and many people of Pakistani origin are living in this country and take a great interest in what goes on in Pakistan and vice versa. On capacity building projects there, whether they are sufficient or not is under debate. It would take an awful lot to turn Pakistan into the sort of state that we would all feel very comfortable with. But that is the nature of Pakistan. It has a different cultural basis and history from our own. The fact that you are doing something that is clearly meant to benefit the people of Pakistan is surely a good thing, whether it is sufficient or not. It would be nice to be able to do more, but the argument that it is not sufficient is certainly not an argument for not doing it at all.

Q706 Michael Ellis: Do you think the historical connection this country has with many Commonwealth countries around the world, as well as the language and other heritage connections we have with other countries, position the United Kingdom very well, in terms of being able to make a strategic difference in its counter-terrorism activities, and that

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it is accomplishing those goals satisfactorily or relatively well?

Richard Barrett: I certainly think the United Kingdom has a responsibility. We are a permanent member of the Security Council, we pride ourselves on our parliamentary democracy and so on, and we reckon that we have a set of values that are more or less identifiable and are generally for the public good. I think we have a responsibility and obligation to do what we can, and I guess we should start in the countries where we have some sort of cultural and historical affinity, for example in the Commonwealth. I think it would be arrogant to think that our intervention was going to be fundamental to the success or failure of a project. I think we should in many cases probably be guided by the local conditions and immediate demands of the state itself.

Q707 Michael Ellis: You were involved in counter-terrorism at the time of 11 September 2001, were you not, at a senior level in this country? Would you recognise that the efforts of successive Governments since 2001 have seen a sea change in the way that these matters are approached by the British Government, and that the sea change is very much for the better?

Richard Barrett: Yes, definitely I would agree with you there. Security is a national responsibility, is it not? It is not an international responsibility. I think we all agree on that. But the thing that changed with 9/11 was the sense that your security affects my security, that this is a global problem. It is no longer purely a national problem, and therefore you should all join in to the extent of our capacity to be able to help. That has led to a completely different climate and approach to terrorism, and I think that has had a beneficial effect on various other areas of endeavour.

Q708 Mr Winnick: The Cold War lasted about 40 or 45 years. If you had to give any kind of assessment or guess—because we can only guess—how long do you think humanity will have to face this challenge of international terrorism?

Richard Barrett: I do not think we will ever see the back of it, just as it has always been present through history, depending on how you define terrorism. But that sort of asymmetrical warfare—non-state actors involved in violence to coerce a Government by intimidating the public—I think is going to be with us for a very long time. I think it just goes in waves. We hit a high wave and now, in my opinion, that wave is descending; it is coming down again, because in fact terrorism is becoming less and less distinguishable from insurgency, and I think insurgency is something else. The terrorism we worry about is attacks here on the Underground and the bus in Russell Square in 2005 and so on, whereas the insurgency sort of thing is much more worrying in terms of geopolitics, but it is not so worrying perhaps in the traditional sense, in terms of how we suffered all those years with the IRA and so on.

Q709 Mr Winnick: Is the end likely to come about through exhaustion or splits, rivalries and the rest? Is

that likely, in your view, to be the position? That they cannot win, rather like the IRA coming to that view?

Richard Barrett: I think the IRA was very strongly motivated, and they were able to make new recruits. That is a crucial thing: to be able to make new recruits. To a certain extent, the al-Qaeda related terrorists are able to make new recruits because there are so many people around the world who have those feelings of alienation or powerlessness or discrimination against them, or whatever it may be that may make them susceptible to joining a group like that. Those motivators may make you join something, but they may not turn you against something. I think with the traditional terrorist groups, it is very important to define them by the nature of the enemy and that becomes hard. If you are fighting in an al-Shabab or if you are fighting in Syria or Iraq or something, your enemy is very local.

Q710 Nicola Blackwood: I just wanted to follow up, Mr Barrett, on some comments that you made to Yasmin Qureshi regarding funding community groups and capacity building via that route. I believe that you wrote an article in 2013, after the Westgate attack in Nairobi, about the Global Fund for Community Engagement and this \$200 million over 10 years, the idea being to fund grass-roots community groups. I am just wondering how you ensure that those groups are able to access this funding. In my experience, the problem is ensuring that there are tendering processes that are accessible to groups, in the right language and on platforms that are accessible when internet access is not necessarily possible, and then how you can track that, monitor that spend.

Richard Barrett: You are very perceptive, because I think that precisely the problem of the fund is that the people you might want to support may never have heard of the fund, and may never get to hear of the fund. Even if they did, they would not know how to apply for grants and so on. They are not accustomed to that sort of grant giving. Also, in many countries where there is a particular problem of violent extremism, of course, the civil society groups are not particularly trusting of Government and nor is Government trusting of civil society. The fact is that the Government is going to have to be involved in these grants. You cannot give an international grant to a group that the Government is virulently opposed to or thinks is no good. That is also going to make it very difficult.

Also, your colleague Michael Ellis mentioned corruption and the difficulty of giving grants to countries where there is a great deal of corruption—making sure that it goes to people who are going to use it properly, rather than to somebody's brother-in-law or whatever. That is another factor. There are huge problems in getting the money down to the grass-roots level that you want to engage.

Q711 Nicola Blackwood: In every case would you go via the state, or in some cases would you go directly via civil society to grass-roots level?

Richard Barrett: The idea is that you engage civil society, you empower civil society and that civil society becomes a partner in this whole endeavour.

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That is going to help because it will trickle down. In most countries, civil society knows who the other groups are, do they not? They know who is good and who is bad, so once you can get over that hump of the country committees that have Government representation, and once you can get over their potential stranglehold over the delivery of funds, I think it should be successful. That is why I am very much in favour of this fund. I think it is something we ought to be pushing.

Q712 Nicola Blackwood: My question is, does the fund route all its money via states, or does it go directly to civil society?

Richard Barrett: Sorry, I did not hear you properly. The idea is that the application comes to a country committee, and the country committee has representatives of Government, of international organisations that are in the country, and of civil society. Then they look at the project and say, "Would we support this or not?" Then there is a governing body in Geneva, as it will be, that keeps an oversight of the whole thing. Then it goes back to the country committee, and without country committee agreement, I think it would be quite difficult to get the funds down to the grass-roots level.

Q713 Lorraine Fullbrook: Mr Barrett, given the UK Government's investment in capacity building, in your opinion is this money best spent in unilateral projects run by Her Majesty's Government, or would it be better to channel it through multinational organisations such as the Global Counterterrorism Forum?

Richard Barrett: The UK does both, of course, and I think that there should be a bilateral programme, because that is an important part of your bilateral relationship with a Government, is it not? If you are going to give money, you might as well have some political benefit from it; I think that is entirely fair. But I think also there is something about aggregating funds under one heading and having a whole group of countries agree that this is a more needy cause than that; your funds inevitably become a little more anonymous in that case.

Q714 Lorraine Fullbrook: But we should do both?

Richard Barrett: Definitely I would carry on with the bilateral; after all, our reasons for giving money are essentially UK reasons, are they not? However amorphous they might be, they are still UK reasons. Those reasons will remain, and will satisfy that need to support our policies more broadly by giving bilateral aid.

Q715 Paul Flynn: Is Afghanistan 2014 mission accomplished?

Richard Barrett: What was the mission? If the mission was to destroy al-Qaeda, then I suppose it is partly accomplished. If the mission was to rebuild Afghanistan, then I do not think it was accomplished. If the mission was to destroy the Taliban, then it certainly was not accomplished, and if the mission was to somehow instil some stability into Central Asia, also I do not think it was accomplished. I think

this is a situation we are in now that was unforeseeable, of course, in 2001. Wars have unintended consequences, do they not? Certainly there have been many unintended consequences in Afghanistan.

Q716 Yasmin Qureshi: Kicking on from the question of Paul Flynn about Afghanistan, and I do not honestly want to get into a debate about this, you were saying that the consequences people were not aware of in 2001 and what was going to happen. But as you know, even when we were sending our troops in, there was quite a strong body of opinion that said, "Look, something is going to happen if you do this", and all those things have happened. Afghanistan has happened, whatever has happened, but for other areas where we get involved in conflicts and things, is it not about time that international communities and Governments at large looked at the opposite opinion given to them about a particular geographical area and said, "Do not just look at it in one way. There is the alternative narrative here on the problems"? For some people like me, what happened in Afghanistan came as no surprise. What is happening in Iraq comes as no surprise. A lot of people are saying those things. Is it not time for the international community, perhaps, and organisations like yours and others who are guiding them and advising Government, to think, "Hang on, there is another perspective and perhaps we should look into other opinions on these conflicts when we enter into them"?

Richard Barrett: I am sure a responsible Government listens to all opinion and takes it into account. But there has to be a decision made, and that decision is a political decision. I am not sure that it is an entirely rational decision, because you do not have all the facts at your disposal. I think also in the United States where I live almost all my time, everything is an issue of domestic politics. It does not matter whether it is Iraq or Afghanistan or anywhere, it is about domestic politics. It makes it very complicated for Governments to sit down and take into account all the opposing views, all of the historical relevance and so on of what they are trying to do. It would be a great world if that happened, but I do not see it coming about anytime soon myself. I hope you are more optimistic.

Q717 Chair: Thank you. Just two quick questions from me. Turkey has been identified as a country that seems to be a gateway for people going to Syria, Afghanistan and other countries. Do you think enough has been done by the Turkish authorities to monitor and stop this activity?

Richard Barrett: I think so now. The Turks, like the Saudis and various other countries to a certain extent, who have been quite closely involved in the fighting in Syria, are much more aware of the blowback potential, as they call it. In Turkey, over the last few months, there have been several arrests of people who have been looking as though they are planning terrorist attacks in Turkey, or even in Syria. But they are terrorist attacks rather than fighting the rebel cause.

I think it is rather interesting the way Turkish policy is going. Turkey's engagement in Syria, in the foreign

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fighters phenomenon, in regional security, in Iraq, and with what is happening with Iran is absolutely essential in my view, and therefore it worries one when one sees Turkey veering off in one direction; you think that is not terribly positive. At the moment I would have thought maybe it is veering back into more discussion with its partners and consideration of the potential longer-term consequences of what is happening in Syria.

Q718 Chair: So much of what we see as the ideas behind al-Qaeda are developed on the internet through social media. Do you think the companies are doing enough to monitor what is being said when there are people who are encouraging terrorist activities?

Richard Barrett: I agree: there is a lot of effort now to have community reporting of inappropriate content, is there not? I think that is quite a good way of dealing with it. For the people who are setting up the framework for postings and so on, to expect them to censor it in some way is too much. I think there are freedom of expression issues there that would be much more important, personally.

Q719 Chair: Do you come across security services in the States or anywhere else that are now more proactive in trying to encourage the internet companies to do more? I have been to Europol and seen the monitoring that is going on at Europol of the many hundreds of thousands of sites. There is a lot out there, is there not? It is impossible for the companies to look at everything.

Richard Barrett: I think there are two different approaches. In one set of countries, you see them trying to suppress it. They stop it. They close down the sites and stuff like that. They try and build a firewall, if you like, to protect their citizens. That does not appear to work. That is not very good. On the other side, right at the other end, there are people who try to counter those videos and so on by addressing the same audience or trying to reach the same audience. Then, of course, you get into this issue of whether it is working or not. What is the audience you are addressing? There are many different audiences you should be addressing with a counter-narrative. Everybody is aware that, if you take the example of Syria, many of the people who are going to Syria now are doing so because of things they saw on YouTube or whatever, so there is no doubt that it is a factor.

Q720 Dr Huppert: I have seen YouTube's presentation on how they go about judging things, but let me press you a bit further on this idea of showing alternative messages, because that does seem like a more positive approach. Do you think there are good examples of where that has actually worked, so that people find countervailing messages when they search for things? Can it work?

Richard Barrett: Let us just look at counter-messaging the audience that the terrorists are trying to attract. There is lots of other counter-messaging that we have to do, but if we just look at that end of it, I think terrorists do seek this idea of legitimacy. If they cannot express some sort of legitimacy for their actions, then they are not going to get anybody to join them at all. They have to say, "The enemy is really bad. They are doing all these things. Our things, even if they have bad consequences, are better, because at least they address those terrible things that the enemy is doing". That legitimacy argument you can attack, because you can say, "There is no way that by killing women and children in the market or something you are attacking the enemy, who you say is in Washington. It is ridiculous," and you undermine the legitimacy. What that tends to do is make the terrorist group shut out those voices, so it retreats into a smaller area of the internet. If it retreats into a smaller area of the internet, it reaches fewer people, so that is not a bad result in some ways.

Q721 Chair: Thank you. I am afraid we must move on. We could stay here all afternoon asking you questions. Again, please would you pass on our thanks to the Soufan Group for the work that they do?

Richard Barrett: I certainly will.

Q722 Chair: If there is anything that we have missed out that you feel is relevant to our inquiry, please write to us. We are in the final stages. The Committee is going to Kenya next week to look at the after-effects of Westgate, but we will be writing the report later on, probably in March, and anything you have to say will be very welcome. We are most grateful to you for flying all the way from the United States.

Richard Barrett: It is a pleasure, Chairman. Thank you.

Tuesday 18 March 2014

Members present:

Keith Vaz (Chair)

Nicola Blackwood
Mr James Clappison
Michael Ellis
Paul Flynn

Lorraine Fullbrook
Dr Julian Huppert
Yasmin Qureshi
Mr David Winnick

Examination of Witness

Witness: **Sir Mark Waller**, Intelligence Services Commissioner, gave evidence.

Q723 Chair: Could I call the Committee to order and could I ask Members present to declare any interests they have that is over and above the Register of Members Interests? I welcome our first witness for today's hearing. This is the continuation of our hearings into counter-terrorism. I thank Sir Mark Waller, the Intelligence Services Commissioner, for coming before the Committee today.

Thank you, Sir Mark. We are most grateful to you for coming here. Could I begin with a question about the resourcing that you have in your post? You do 100 days a year.

Sir Mark Waller: 120 or 130 days a year.

Chair: 120 to 130 days a year.

Sir Mark Waller: Yes.

Q724 Chair: You seem to have a staff of one personal assistant. Do you think that is sufficient for you, in this very important task of Intelligence Services Commissioner, to be able to hold accountable the intelligence services? It does not seem like you are overburdened with having a lot of people to assist you on this very difficult task.

Sir Mark Waller: The position is that at the moment one person, Susan Carr, is effectively my PA. It is not fair to suggest that is the only help I get because we do have other help in relation to helping us draft and type up reports and so on, but the whole strength of the Commissioner system is that I do the work. The whole point is that we do not have staff that is going to go into the agencies. It is me. I am going to go in. I am going to select the warrants that I am going to concentrate on and read all the papers in relation to those warrants so that I can be satisfied of the case of necessity and proportionality. It is for me. That is the importance of it.

Q725 Chair: The warrants are being granted and authorised at the rate of eight per day, I think. In 2012 the figure was 2,838.

Sir Mark Waller: Yes.

Q726 Chair: How many of those warrants and authorisations have you personally seen, bearing in mind that they are increasing at the rate of eight a day?

Sir Mark Waller: I am afraid that figure last year is a little bit misleading and the reason for this is that one of the agencies changed its system and so there were an awful lot of warrants cancelled and then warrants obtained under the new system. If I were to give you

the figure for last year by reference to 2,830-odd, the answer would be something in the region of 6%.

Q727 Chair: Right. Give us a figure now for 2013. Not in a percentage total but in an absolute total, numbers as opposed to percentage.

Sir Mark Waller: I can do it in a percentage first. Just let us see whether I have that right. About 12%; so I think about 1,700, or thereabouts, warrants and—

Chair: 1,000—

Sir Mark Waller: 1,600 or 1,700, something of that nature. This is for last year, of course. The report you are reading is the report for 2012. We are dealing with last year's, 2013, and—

Q728 Chair: When you say the figures are misleading, Sir Mark, these are your figures and they are in your report. That is why you are before us today, because we are questioning you on them. I would not want you to start casting aspersions on your own report.

Sir Mark Waller: They are absolutely accurate.

Q729 Chair: Are they accurate or not?

Sir Mark Waller: They are absolutely accurate.

Q730 Chair: They are not misleading.

Sir Mark Waller: That is a little unfair because they are entirely accurate figures but, in terms of assessing the percentage of warrants that I look at, it is a much higher figure than would normally be there because of what happened during the year.

Chair: It is now 1,700.

Sir Mark Waller: Yes.

Q731 Chair: Of those 1,700, how many have you had a look at to scrutinise?

Sir Mark Waller: About 200 or thereabouts.

Q732 Chair: Having looked at them, are you satisfied that they were properly granted?

Sir Mark Waller: Absolutely, but remember I am not just looking at the warrants themselves. What I am looking at is the paperwork that leads up to the warrants. In order to get a warrant there has to be a submission prepared that has to make a case that it is necessary to get the intelligence that the warrant is designed to get and it has to make a case that privacy has only been intruded to the most limited extent and that, such intrusion into privacy as there is, it is justified by the requirement to get that form of

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intelligence. I am looking at the paperwork as much as anything.

Q733 Chair: In respect of the Snowden issue, you made a comment in your report. You said, “I have discussed matters fully with senior officials within GCHQ and I am satisfied that they are not circumventing the legal framework under which they operate.” Is that the way in which you satisfied yourself that there were no problems with what Snowden had said, by having a discussion?

Sir Mark Waller: The paragraph before I say that showed that we were right at the moment at which we were going to be publishing the report and Snowden happened. I just thought it was absolutely wrong to publish my report without going down to GCHQ in order to see whether there was anything in the allegation that was being made. The allegation that was being made at that time was that GCHQ were taking no notice of UK law. They were doing it all through America and they were behaving unlawfully.

Q734 Chair: You went down to GCHQ.

Sir Mark Waller: Yes.

Q735 Chair: You went to see who there?

Sir Mark Waller: I saw the second head of the agency, in fact.

Q736 Chair: How did you satisfy yourself? It seems, from your comment, that what you did was you had a discussion with them, you heard what they had to say and you have accepted what they had to say.

Sir Mark Waller: Certainly.

Chair: Is that it?

Sir Mark Waller: Certainly.

Chair: Just a discussion?

Sir Mark Waller: Certainly.

Chair: Nothing else?

Sir Mark Waller: Certainly.

Q737 Chair: That is the way you were satisfied that there was no circumventing on UK law. You went to see them. You sat round a table. You had a discussion—

Sir Mark Waller: You have to remember that I had done a year and a half’s inspection. I have a very good idea as to what the ethos of this agency is.

Chair: Of course.

Sir Mark Waller: They know perfectly well that they have to make out their case and the legality of their cases and so on and I have absolutely, clearly, accepted that—

Q738 Chair: Of course. How many times have you visited GCHQ in the three years and two months that you have been the Commissioner?

Sir Mark Waller: Three years and two months. Well, again, each visit in 2012 is in the report. Effectively, I do two inspections a year.

Q739 Chair: So you have been about six times?

Sir Mark Waller: Yes.

Q740 Chair: Six times in three years?

Sir Mark Waller: Yes.

Q741 Chair: That satisfies you that everything is in order. I am not saying this is my view, but some may feel that this is not particularly robust in terms of holding the security services to account.

Sir Mark Waller: Can I say that when I started the job I had a scepticism about the agencies and I did wonder whether two visits a year and “dip-sampling” was sufficient, but when you get down there and you see the care with which they prepare their submissions and the cases that they make on the submissions you suddenly also realise that these people do not want to break the law. Individuals do not want to be liable for criminal offences. You also suddenly appreciate that—

Q742 Chair: This is done on the basis of conversations?

Sir Mark Waller: No. It is done on the basis of reading their reports and asking them questions about it. I have visited certain stations as well abroad and I have my conversations there as well. The important thing is that you suddenly realise that each person who is filling in the case has in the back of their mind that there is a chance—and it is quite a good chance—that some senior judge is going to read these papers and hold them to account.

Chair: Indeed. That is extremely helpful.

Q743 Mr Winnick: Sir Mark, when these stories appeared arising from Snowden regarding GCHQ, presumably you did not work on the basis that, when you had a conversation, as you explained to the Chair, the Director-General of GCHQ would have said, “We’ve broken the law”, or, “The Snowden accusations are correct”. Presumably you expected the reaction that the chief executive gave.

Sir Mark Waller: If you want to know, I was absolutely terrified that all that I had thought for 18 months was now going to turn out to be utterly untrue; in other words, that I had been spoofed. That is what I was worried about. Do not think it was just a conversation across the table, “Oh, I am sure it is all right, isn’t it?” That is not the conversation I had. The conversation I had was, “Look, you show me how and why you are doing it because this is a very serious allegation”.

Mr Winnick: Indeed.

Sir Mark Waller: They gave me the details of what they do and how they do it. They gave me those details.

Q744 Mr Winnick: This is a very important point because the accusation is that probing and investigation has not taken place. When you say you had a conversation and the chief executive confirmed all was in order, some may say, cynically and perhaps without justification, “Well, this is the old boys’ network”. You had to be satisfied. The Director-General said what you expected him to say, but at the end of it all—am I not right—there was no probing into what he said to you. There was no investigation. You accepted his word, that he was telling truth, as well he might, but what disturbs some of us, among those of us who have taken the Snowden report rather

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seriously, is that there is not enough investigation or any investigation to find out what happened.

Sir Mark Waller: As I knew—I am sorry. I did not mean to interrupt. I apologise.

Chair: No, I think Mr Winnick had come to the end.

Sir Mark Waller: I am so sorry. As the paragraph in the report says, I knew at that moment in time that the ISC Committee was going to be conducting its own investigations. That is what the paragraph says. I knew that further investigation was taking place. I wanted to go down and check whether I had been spoofed for 18 months in thinking these people were doing things lawfully. That is what I wanted to check.

Chair: Thank you, very helpful.

Q745 Dr Huppert: I am afraid I am going to have leave after this for another committee. You will obviously be familiar with section 94 of the Telecommunications Act 1984, which gives very broad powers in the interests of national security to do essentially anything. What role do you play in supervising how it is used, monitoring the use and checking that it is all proportionate?

Sir Mark Waller: That is just simply not part of my statutory oversight. I have heard that you are concerned about this. As you know, the new legislation allows me to take up with the Prime Minister whether there are things that I or somebody else should have oversight of. It seems to me that that is an example of where it would be right to have a word with the Prime Minister.

Q746 Dr Huppert: I would be interested to know if you think anybody looks at how it is used, but I am also surprised because your own website, intelligencecommissioners.com, says, “Sir Mark Waller is charged with overseeing the broader conduct of the intelligence services in relation to the discharge of their functions.” Yet you are saying that, despite the fact this is part of their functions, you do not have any responsibility for it.

Sir Mark Waller: No, I do not have an oversight.

Dr Huppert: Do you know who does?

Sir Mark Waller: There is no statutory oversight of that section.

Q747 Michael Ellis: Sir Mark, when you check things for the intelligence and security services, how often are they not in order? You have talked about a 6% or a 12% dip sample; a couple of hundred that you randomly, I presume, pick out from the 1,700 or so warrants that are issued. How many have you found that are not in order?

Sir Mark Waller: I have found one, which I think is in that report last year, where there had been a taking of a template of the warrant and the wrong description was in the warrant, but I have never found any instance in which there was some failure to get the thing right.

Q748 Michael Ellis: That single error was a typographical or clerical error as opposed to an error of process?

Sir Mark Waller: Yes, that is true, but it is not quite typographical. Typographical errors do also happen

and I do sometimes find those, but if it is clear on the face of the document that it is typographical you can correct that and there is no trouble. Obviously they have to report errors to me and there are errors reported. Those, again, are administrative errors, i.e. circumstances in which somebody has failed to renew something, and so there is a period of 24 hours, or whatever it may be, where intelligence is being wrongfully gathered.

Q749 Michael Ellis: Do you have a process by which you can look at particular warrants or particular files because they relate to prominent people, for example, or people over whom you have a particular interest? Do you have a way of sifting through those that you might particularly want to look at or is this a completely random process?

Sir Mark Waller: No. They give me a full list that will have a little description of what it is concerned with. I can certainly pick out warrants if they have a particular feature or a particular person or, in some instances, a particular country, if it is the Foreign Secretary; those sorts of warrants.

Q750 Michael Ellis: Very well. This is a key question, if I may. How do you know that you are seeing all 1,700 that the security services have prepared? For example, how do you know that there are not a handful that you have not seen that are not listed on this full list? How do you know?

Sir Mark Waller: That is a thing that I debate with them almost each time.

Q751 Michael Ellis: You do?

Sir Mark Waller: Trying to prove—

Q752 Michael Ellis: What is their answer?

Sir Mark Waller: I will tell you what I say to them. I say, “Look, just assume for the moment that I am somebody who does not believe a word that you are saying and I think you have a room at the back there and that you are doing all sorts of things that you should not be doing but you are not showing me. How do you prove that is not so?” They say to me, “Look, nobody can do anything in this organisation without somebody else knowing”. The paperwork will go, say, from a foreign station somewhere up through the senior people there. It goes through up to the head office and so on. If this room existed where everybody is doing it, it would have to be a massive conspiracy. That is my judgment.

Q753 Michael Ellis: It is just that we hear reports about mass shredding in the Metropolitan Police. We hear reports about things going missing and we hear about potential miscarriages of justice. For those of us that support the work of the security services, we want to be assured that people like you are not being in any way hampered in the work that you are doing and that you are seeing everything you are entitled to see. Are you satisfied, so that you feel sure, that you are seeing that material?

Sir Mark Waller: I am satisfied so that I feel sure and that is why, after the Snowden allegations, I went

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haring down, because I suddenly thought, “Crikey”, but I became sure again.

Q754 Yasmin Qureshi: In the year 2012 there were 2,838 warrants and authorisations approved. How many did you actually look at yourself?

Sir Mark Waller: I think I have already answered this question. This is exactly what the Chairman asked me, but I will answer it again. I gave it in percentage terms. It is about 6%.

Q755 Yasmin Qureshi: That is right, 6%, but do you not think that if you looked at each one of those cases that would be better reassurance to the public that, in each case, there has been an appropriate level of information provided and the decision to do it has been appropriate? Do you think 6% is far too small a sample?

Sir Mark Waller: As I said, when I started out I was sceptical and I worried that it was too small a sample. Now, because I see the way they operate, I do not think it is and the reason I don't think it is is because each and every person that writes the submission showing it is necessary to do what they want to do, showing that privacy has been properly considered, has in their mind that this may be read by a judge.

Q756 Paul Flynn: You are opposed to the suggestion that an inspector general should be appointed to oversee all aspects of the intelligence services. Why?

Sir Mark Waller: It would certainly depend on precisely what you had in mind by an inspector general. If it was simply to say we will have one person doing the job that is Sir Anthony May and I do, I do not see the point of that because you have two judges doing the work. Therefore, it would seem to me, if it just going to be one, combining them. If you are going to say, “Well, no, it is not that; I want somebody who is not a judge to have a big organisation with lots of people who are going to go into the agencies and do everything”, first you have to find the right people.

Secondly, you may be doing something that has lost one of the key features of the way it operates now, i.e. you no longer have the agencies saying, “Oh my goodness me, a senior judge may read this”. I think you will lose something and I query whether you gain anything. The bureaucracy that would be built up and the amount of time that you would take with the agencies when they are meant to be doing a job, which is protecting the country, I query: is that a gain? I doubt it.

Q757 Paul Flynn: The role of MPs includes the solemn duty now of declaring war and deciding when we join conflicts. The result of our recent decisions has been the loss of 628 British lives. In 2003 we were misinformed by the security services and the ISC on the weapons of mass destruction in Iraq. In 2006 we were also misinformed on the likelihood that there would be no shots fired in the Helmand Province. Two members of the Committee were told directly that Britain was not involved with the rendition of prisoners and we know now that this was a lie and we were, as a nation, complicit with torture by Gaddafi,

among others. Don't you think, in those circumstances, when there has been a history of misinformation supplied to MPs, we need to change the system and put someone else in charge?

Sir Mark Waller: What you are talking about occurred in the early 2000s.

Paul Flynn: The extraordinary rendition was more recent than that.

Sir Mark Waller: 2002.

Chair: If you could address the general point rather than specific “when did the war start” issue.

Sir Mark Waller: I can't say any more. I do not believe that putting in place an inspector general with a lot of bureaucracy and taking up—remember, resources are finite. You take up a lot of time at the agencies when they are trying to do the things that they want to do. I just do not believe—

Q758 Paul Flynn: You seem to be supportive of the recent history and I am telling you, as a Member of Parliament, that I and all other Members of Parliament were misinformed or lied to on these most important matters and we took those decisions to send young men and women to their deaths on the basis of misinformation, mistakes or actual lies. In those circumstances, how can you feel so complacent about the status quo?

Sir Mark Waller: I think it is very unfair to say that I am complacent. I certainly am not complacent. I go in with a complete lack of complacency. I go in and examine as hard as I can. I am very doubtful whether some of what you are saying would be caught even by a large inspector bureaucracy and I am not complacent. I just worry that you will lose something by having a more bureaucratic inspector. That is all I am worried about.

Q759 Paul Flynn: The Intelligence Security Committee is nominated by the Prime Minister and it is a creature of Government and it had a record of being complicit with Government decisions. Surely there is a better way and the Members of Parliament need someone to represent their interests and the interests of the country generally, rather than being an arm of Government and a poodle committee that does what Government tells them to do.

Sir Mark Waller: I do not think the ISC now just is a poodle. The ISC is now a parliamentary committee. You could criticise the system previously on the basis it was just a Prime Minister-appointed body, but it is now a parliamentary committee and it does a great deal in terms of investigation and so on.

Chair: Mr Flynn does not mean to cast aspersions on those who sit on the Committee, but I think the point he is making is that it is not elected by the House. It is appointed by the Prime Minister.

Q760 Paul Flynn: Who do you think should inform MPs before we take these decisions? When we have a debate on a possible crisis at the moment, when it is not impossible that we might be called on to take military action, who do we believe?

Chair: This may be slightly beyond your remit, but it is very helpful for Mr Flynn to ask.

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Sir Mark Waller: I am afraid it is. Don't worry, I can understand. I am not not understanding. I just do not think I can help.

Chair: Thank you. That is very helpful and we accept that answer.

Q761 Nicola Blackwood: I want to move on to your powers to interrogate the behaviour of individuals. I understand from the notes that you provided that one of your statutory functions is keeping under review the exercise and performance of members of the intelligence service and others in relation to their powers and duties under parts 2 and 3 of RIPA. I want to ask specifically, who examines the disciplinary proceedings against the employees of the security intelligences agencies?

Sir Mark Waller: I do not think that is within my statutory remit, but I certainly am interested. They have a very powerful auditing process. First of all, obviously their software will show any misuse by anybody of the people trying to get hold of telephone numbers or whatever it may be. That would be flagged up. They have a very strong disciplinary process and I see that process and the way it has been carried out.

Q762 Nicola Blackwood: How do you see that process?

Sir Mark Waller: They report to me. They are prepared to show me a report.

Q763 Nicola Blackwood: You are presented with a report on your twice-yearly visits of all disciplinary proceedings?

Sir Mark Waller: Yes.

Q764 Nicola Blackwood: Do you take any further action to investigate whether those disciplinary proceedings have been appropriately managed and taken forward?

Sir Mark Waller: I am able to see what it was that the person was being disciplined for, if they were being disciplined. To that extent the answer is yes.

Q765 Nicola Blackwood: No. You can see what it was, but I am asking whether you interrogate further to test whether the disciplinary proceedings have all been conducted according to an appropriate standard.

Sir Mark Waller: I see their rules. I don't say that I challenge, "Gosh, did you comply with the rules". I don't say that.

Q766 Nicola Blackwood: You don't do that?

Sir Mark Waller: No.

Q767 Nicola Blackwood: If that is not your job, is that the job of anybody else?

Sir Mark Waller: No.

Q768 Nicola Blackwood: All right. Okay, that is fine. Secondly, I just want to come back to a couple of comments you have made about the fact that you have confidence that the staff you have met are conscientious and professional and want to do the right thing. How would you characterise your

relationship with the security intelligence services that you are there to hold to account?

Sir Mark Waller: I think they are respectful of the fact that a judge or, I am afraid to say, ex-judge is prepared to do this job and, for the senior members of the organisation whom I see each time, obviously I get to know them quite well. I do, but the individuals who come and have to defend the cases they have made or for me to ask questions about, I think they think they are being subjected to quite serious examination by a judge.

Q769 Nicola Blackwood: You think you have sufficient authority within the framework that you have been describing to us, of twice-yearly meetings and quite small samples, to be able to demonstrate a significant amount of accountability for what is a widespread secret organisation.

Sir Mark Waller: Yes, I think so, but that is because I do believe that—I am repeating myself—each person within the organisation who has to prepare these submissions and the case to get the warrant or the authorisation does so knowing perfectly well that there is a chance that a judge will look at it. I have never found one that is—

Chair: Very helpful. I am most grateful.

Sir Mark Waller: Thank you.

Q770 Mr Clappison: Sir Mark, I think we should be properly grateful to you for the work that you do and I certainly would join with you in the importance that you attach to the work that the security services undoubtedly do in protecting the public, but I think you will also understand the concerns Members of Parliament have and should have when it is clear that something has gone wrong in the not-to-distant past. You have spoken today of what I think we could describe as the ethos of the organisation that you dealt with and the conscientiousness of the people in it and the concerns they have. I think we could characterise that as an ethos. Can you understand the concerns that people might have, though, when, in the same organisation and presumably with the same ethos, in the not-to-distant past something went seriously wrong and there was some complicity of this country in a case where torture was involved? Yes, I am asking about the Binyam Mohamed case.

Sir Mark Waller: Of course I understand that. All one can say in relation to that is that it is an extra statutory oversight that relates to the consolidated guidance.

Q771 Mr Clappison: I want to come on to ask you about those because they are concerned with perhaps a slightly different side of things, as you have said. They come into play when a member of the intelligence services has been involved in the interviewing of a detainee held overseas by a third party. Also, where they have received information from a liaison service or they have passed information on to a liaison service when they are liaising with a third party. How many of those cases have you dealt with that fall under the consolidated guidelines relating to those cases where somebody is held overseas by a third party or information has been received from a liaison service or our services have

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passed information on to a liaison service, which I take it has been the liaison service being some other country's service?

Sir Mark Waller: Again, because I was concerned about the breadth of this oversight and I could not possibly look at each and every case, the way I have organised it is that each of the agencies prepares a full grid of the cases in which the consolidated guidance applies. That is to say, each and every case where there is a detainee involved and where somebody has had to do an assessment of whether there is a serious risk of cruel or inhumane treatment. I get that full grid and I see exactly what they did. What the consolidated guidance is seeking to achieve, first of all, is that anybody who is concerned either for questioning or sharing of intelligence where there may be a detention has at the forefront of their mind that they must ask themselves the question, "Is there a risk of cruel or inhumane treatment?" If there is a serious risk, then they must go through the process. First, referring it up to a senior person in the organisation. If ultimately there is still an assessment that there is a serious risk then it must go up to a Minister.

Q772 Mr Clappison: I am grateful to you for that answer. Can you tell us, first, how many such cases fall within the consolidated guidelines? Not how many you have looked at, but how many cases there are.

Sir Mark Waller: Hundreds.

Q773 Mr Clappison: Hundreds. Are they included in the figure of 2,800?

Sir Mark Waller: No.

Q774 Mr Clappison: That is a different figure?

Sir Mark Waller: Absolutely, yes. I am sorry. It is hundreds. It happens on a daily basis.

Q775 Mr Clappison: You look into a sample of those cases?

Sir Mark Waller: Exactly that.

Q776 Mr Clappison: Could you give us an idea of the percentage that you look at?

Sir Mark Waller: I am afraid I can't. Do you want me to—

Q777 Mr Clappison: That is okay. If you feel like writing afterwards that would be very helpful. I am sure members of the Committee would find that helpful.

When you are looking at these cases you are looking at reports that have been given to you, what has been written up about them. Is that right?

Sir Mark Waller: Yes.

Q778 Mr Clappison: You are looking at the cases. You are looking at the cases and you are looking at the paperwork that has come out of the cases. Yes?

Sir Mark Waller: Yes.

Q779 Mr Clappison: When you say you are looking at them, exactly what do you do?

Sir Mark Waller: What I am trying to do is to check that these grids are accurate; that is to say, that the

employees in the agencies have at the forefront of their minds the consolidated guidance and the tests and that when they go across the page saying that, yes, they took the view that there was a serious risk but then, "Who did you refer it to?" The answer was, "Senior person", and then it might have been referred to a Minister. What I am checking is to see that the papers I have show that that is the process through which they went. It is very important to know that I am not checking whether there was a serious risk. I am checking that they always think about it and then take the process through.

Q780 Mr Clappison: Obviously you are looking at this seriously within the powers that you have been given, but what you are describing to us is a paper compliance exercise, is it not?

Sir Mark Waller: It is. I think that is a fair way of putting it, but I do not think it is just a paper compliance exercise because what it is doing is making sure that all the individuals who have anything to do with a detainee register that the consolidated guidance—and I see that. I have paperwork that shows me that.

Q781 Mr Clappison: Do you ever get the chance to meet the people who have been preparing these reports and ask them questions?

Sir Mark Waller: Yes.

Mr Clappison: You do.

Sir Mark Waller: Yes.

Q782 Mr Clappison: In how many cases does that happen?

Sir Mark Waller: It happens more when I am visiting a station because that is where it happens more than anywhere else that they have to consider whether, for example, they are going to share intelligence with a liaison where there is a risk of serious—

Q783 Mr Clappison: Could I just ask you one other question arising from that. I am very grateful to you for your answers. On the basis of what you have told us, would you be confident that a case like that of Binyam Mohamed could not happen now?

Sir Mark Waller: I do think I would because I do think it is now absolutely ingrained in the people who work for either SIS or the security service, but particularly SIS, that if there is a detainee involved they must apply the consolidated guidance.

Chair: Thank you very much. Colleagues, we have other witnesses.

Q784 Nicola Blackwood: Sir Mark, you described your anxiety when the Snowden revelations hit and you rushing off to GCHQ in order to check that what you thought you knew about them was true. You can imagine that all the constituents that we have, the general public, feel the same level of anxiety, but even more because they do not know the people you are talking to and we do not know them. On top of that, we have had the same about policing, with Hillsborough and with the *Ellison Report*, and so there is this huge crisis of confidence in policing and undercover operations. Do you think that the outline

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of the oversight that you have given us today would reassure those constituents that there is sufficient accountability in the system when added together with the ISC? Do you think there are sufficient powers in the system to hold those individuals to account to give confidence back to the public?

Sir Mark Waller: I do think so, but I do think there is a major worry as to whether the public appreciate, for example, what Sir Anthony May and I do. I am afraid I have found, in talking to members of the public, that they did not know we existed.

Chair: That is why the Committee has brought you hear, so that people do know that you exist.

Sir Mark Waller: Touché, Chairman.

Q785 Nicola Blackwood: How many disciplinary proceedings were reported to you in 2013?

Chair: How many disciplinary proceedings in 2013?

Sir Mark Waller: I don't know.

Nicola Blackwood: You said that disciplinary proceedings were reported to you and I am just wondering—

Chair: Would you write to the Committee and tell us?

Sir Mark Waller: I will try and do that.

Nicola Blackwood: Thank you.

Q786 Mr Winnick: The follow-up questions are regarding the position of the security service and let me say straight away, Sir Mark, that I share the views of all colleagues, as yourself, of the essential work undertaken by the security services; even more so, of course, as a result of the constant threat of terrorism. Your former judicial colleague, Lord Neuberger, in the case that Mr Clappison mentioned—and I am sure you are perfectly aware of—made his judgment in February 2010. He said, “Some security officials appear to have a dubious record when it comes to human rights and coercive techniques.” That is a pretty damning indictment.

Sir Mark Waller: I think he said the evidence in the case indicated that. I was perfectly well aware that you were going to put that passage to me because you put it to Sir Anthony and to others, I think. I think it is slightly taken out of context, but don't worry about that point. The real point is that the question of whether there was misconduct was never tried out. It is true that he made that comment there and you will remember that what happened was that the Crown asked him to remove that passage from his judgment.

Mr Winnick: Exactly.

Sir Mark Waller: He was then persuaded to put it back in. Part of the case of the Crown for asking him to remove it was that it has simply never been tried out as to whether there was this misconduct, but the other important point is that he is talking about something that happened in the early 2000s. It was the forebear to the consolidated guidance that has now been brought in, in order to try and see that people are absolutely conscious of what their duties are.

Q787 Mr Winnick: Surely Lord Neuberger—a distinguished judge, indeed like yourself, and in the past he was Master of the Rolls—would not have dreamt of making the comment that I have quoted

unless he was pretty certain he was on good grounds for doing so and the fact—

Sir Mark Waller: No, I am sorry, just pause a second.

Mr Winnick: Yes, of course.

Sir Mark Waller: Remember, it is at an interlocutory stage. Everything is on paper. So he is saying, “I think that what is in the documents here indicates that”, but what he could not say and part of the argument of the Crown was he cannot say it is proved because nobody has tried it out. One of the things that happened was that, because the Crown were not able to produce the secret evidence in order to defend themselves against the case, ultimately—

Q788 Mr Winnick: Does that mean you take the view that at no stage in recent times—and no one has suggested for one moment that they were directly involved in torture, not a single person to my knowledge, prisoner or otherwise has suggested that—that no security official was complicit in the torture carried out abroad? Are you saying that?

Sir Mark Waller: I do not know what happened in 2000. I have no idea. If there was, it was reprehensible.

Mr Winnick: To say the least.

Sir Mark Waller: Of course.

Mr Winnick: Because the Government kept on saying, as the present Government has done, that Britain rules out torture completely, directly or indirectly.

Chair: If we could return to how your role impacts on this. Would you like to say something finally on this?

Sir Mark Waller: The way that the consolidated guidance has been implemented—and I have seen it implemented across the board—shows now, as it seems to me, that it is absolutely ingrained in those people who are working for SIS or the security.

Q789 Chair: Thank you, very helpful. Sir Mark, the concerns of this Committee are not that you are not a very distinguished, decent man, which clearly you are, and you are obviously doing this job to the best of your ability, but the problem is that perhaps you are not as resourced as you should be. An Intelligence Services Commissioner, dealing with some of the most important issues cannot feel that they have a grip of this with just one personal assistant as their staff. We take the point that nobody wants a bureaucratic system, but don't you think there is a case for increasing the staffing of the Intelligence Services Commissioner or even making it into a full-time position, which clearly it is not at the moment?

Sir Mark Waller: I hear what you say. I think we are getting more people, but the important thing is that—

Q790 Chair: But do you think it should not be a full-time post, given what we have read in the newspapers, given what Snowden has said, given the concerns of the public and Parliament?

Sir Mark Waller: By full-time, do you mean that you ask a retired judge to do it full-time or are you saying we make one of our judges do it full-time?

Chair: No, I am not saying any judge of any particularly employment. I am just talking about a

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full-time post. This is not a full-time post at the moment.

Sir Mark Waller: No, it is not a full-time post.

Chair: It is a part-time post and, given what you have seen and given the volume of the work and given the public concern, some of it may be able to be addressed if it was a full-time post.

Sir Mark Waller: All I can say is that I think having a senior judge prepared to do what Sir Anthony May and I do produces a situation at the agencies that means they get the thing right.

Q791 Chair: Do you not feel you should have more powers to deal with your subject matter? Obviously we have great respect for the security services, but sometimes they have to be involved in activities to defend the liberty of our country that you and I would normally not want to know about. You are hardly a candidate for the House of Cards. You are a former judge and you are dealing with people who have to deal with very difficult areas. Do you not think you need to be given more powers to deal with these issues?

Sir Mark Waller: I don't think so. If I were to find that they had not made out a case that would mean that people have been acting unlawfully. If I thought people had been acting unlawfully then I would have to report them to the police. That would be as simple as that.

Chair: But you have never had to do this.

Sir Mark Waller: I have not. If I thought that they were conducting surveillance that they should not have been conducting over some individual then it seems to me that I would have to inform that individual so that they could bring that case before the IPT. I just fear that if you expand and expand and expand you will find that you do not get the benefit because agencies will be spending so much time on dealing with inspectors—

Chair: Indeed, you have made that clear.

Sir Mark Waller: That is my view. I might not have had that view before I started and I wish one could make the problem go away.

Chair: Yes, indeed. That is very helpful. Thank you for coming here today. I think you have done a great service to the role of Intelligence Services Commissioner for coming before the House and being able to questions. I know that you and your wife have set up a Charlie Waller Memorial Trust. We wish you the best with that trust and the aims of that trust and the work that you all do. We know that is very close to your heart and we wish it success for the future.

Sir Mark Waller: Thank you very much, Chairman. It is very kind of you to say that.

Chair: Thank you, Sir Mark.

Sir Mark Waller: Thank you all.

Examination of Witnesses

Witnesses: Rt Hon David Davis MP, and Nick Pickles, Big Brother Watch, gave evidence.

Q792 Chair: It is very unusual for this Committee to have Members of Parliament before it. The reason we have asked you to appear before us today is because of your knowledge about these issues. Mr Pickles, thank you very much for coming. I am sorry we are running a little late. You will appreciate the fact that members of this Committee will ask robust, quick, sharp questions and we will get quick, sharp replies, which you are very used to, Mr Davis.

Could I start with you, Mr Davis, and the publication of the Snowden files and generally the architecture of scrutiny. Do you think that what we have at the moment is enough as far as the ISC is concerned, the Commissioners—you have just heard from one of them—or do you think you should toughen it up and make it different?

Mr Davis: No, Mr Chairman. Much of my evidence today is based on a visit to the United States to look at the impact of the Snowden files there. I should say, as a declaration of interest, that trip was paid for by Big Brother Watch, by the way, if you can register that. The arrangements there, although they are criticised in the States for being insufficiently robust, are 1,000 times more robust than ours are already. There is much more public information available, qualitatively different levels of public information. There is more rigorous oversight by many more organisations than you have heard about here. There are legal protections for the privacy of citizens that do not exist here. There is a constitutional bar on general

warrants, which we do not have here. There are proper separations of powers, so the legislators actively challenge the Executive in the interpretation of the law; something very important on the torture issues as well other issues. Of course, something that we cannot reproduce, they have a far stronger IT industry than we have here who have strong vested interests in making sure that surveillance is not misused.

Q793 Chair: Your top three changes to what we have at the moment, including parliamentary scrutiny, would be what?

Mr Davis: Significant beefing up of the ISC, including its method of appointment—

Q794 Chair: You favour election by the House.

Mr Davis: I am in favour of election by the House. I do not mind the Prime Minister having a say at the nomination stage. For example, if I were a well-known communist spy I could be knocked out at the beginning. I do not mind that, but I think the House should choose. I agree with the notion put forward by the Shadow Home Secretary that the chairman of it should be a Member of the Opposition, as with the Public Accounts Committee. Indeed, I think the Public Accounts Committee has a lot to offer here.

Something else that was said to me by a member of the President's Panel was one of the great virtues of the American system is that there is more than one oversight committee. There are two oversight

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committees in the House and Senate, but you also have the judiciary committee with an insight to it. It was a judiciary committee in the latest scandal that provided the most important piece of evidence, namely that the so-called 54 cases stopped by the surveillance or claimed to be stopped by surveillance were untrue. There were zero cases stopped by surveillance.

Q795 Chair: Mr Pickles, top three changes?

Nick Pickles: I agree with the President's review. I think the first one is that you end bulk collection. You go back to a system where warrants are targeted on individuals and on premises and you do not collect information in bulk. The two things that became clear from the US trip is there are different kinds of bulk collection. There is bulk collection without the consent of companies and there is bulk collection by ordering companies to hand information over. Late last night I received a letter from British Telecom refusing to deny that they are handing over information in bulk on thousands or millions of British citizens and that mirrors a refusal to deny the same situation in a parliamentary answer received by Mr Davis.

I think ending bulk collection, and then introducing judicial authorisation for warrants, particularly on interception, so we do not have the situation we have just seen with retrospective authorisation by a retired judge. You have an actual judge hearing both sides evidence. Again, the President's review made clear the danger of one-sided courts. Then, finally, I wholeheartedly agree, rigorous oversight outside the agencies that must include parliamentary oversight. One of the nuance changes that struck me was the remark by the staffers, from the members of the Senate Intelligence Committee, who said the difference it makes by individual members of a committee being able to hire their own member of staff who has security clearance, rather than relying on a collective clerking staff provided by the agencies.

Q796 Chair: Mr Davis, were you glad when the *Guardian* published the Snowden revelations?

Mr Davis: I think the *Guardian* did a public service by publishing the Snowden revelations and indeed, bluntly, I think the Government was heavy-handed in dealing with him. If you look at every other country in the world, the newspapers that have brought this to the fore have been feted. They have been up for Pulitzer Prizes. They have been seen, not just by their colleagues but by the public and by the Governments involved, as having done a service. This is the only country in the world where the Government has taken the opposite view.

Q797 Chair: Mr Pickles, was it a public service to possibly put members of our security service at risk as a result of what happened?

Nick Pickles: I think we need to qualify that, but this was absolutely in the public interest if you look at the remarks of Sir Tim Berners-Lee through to the former Vice President of the United States saying this exposed crimes against the constitution. Only this week we had former members of the Church

Committee saying that we need a Church Committee for the 21st century. It is absolutely in the public interest.

Mr Davis: Can I say as well, Mr Chairman, I do not believe that the *Guardian's* publication has put anybody at risk. You have had Mr Rusbridger in front of you. I have spoken to him at great length as well on this subject and they had been extremely careful to talk to the Government with one exception, which I think was the G-20 exposure that did not put anybody at risk except for a certain amount of embarrassment. With one exception, that being that one, they spoke to the Government before every single article was published. I do not think the idea that they put people at risk stands up at all.

Chair: Thank you.

Q798 Mr Clappison: Mr Pickles, in view of the evidence we have just heard, could you tell us how bulk collection fits into the picture of warrants?

Nick Pickles: The one word you did not hear was "certificates". There are warrants and then there are certificates. Section 8(1) of RIPA allow for warrants and that is for communications within the UK, the internal communications. Section 8(4) of RIPA discusses external communications and they are deemed to have a lower legal protection and this is based on a model where information would flow out and into the UK over copper telephone wires to the Soviet Bloc and so you would intercept every call that was leaving to go to that country. The problem is if you apply that model to the internet. You could send a text message or a Facebook message to some standing a few feet away from you and it might exit and re-enter the UK and, therefore, falls under this definition of external communications. I think section 8(4) of RIPA are particularly—

Mr Davis: Also section 94.

Nick Pickles: Then we have section 94 of the Telecommunications Act, which I mentioned and Dr Huppert mentioned earlier.

Q799 Mr Clappison: Two quick questions. First of all, it is bulk collection of what and who is supervising it?

Nick Pickles: My letter to BT was asking, "Do you hand over data in bulk under any authority?"

Q800 Mr Clappison: What is the data that is being handed over?

Nick Pickles: That would be metadata; the communications data; the who, what, where and when. That would be for a traditional landline or on the internet it could be email addresses—

Mr Clappison: Or a mobile.

Nick Pickles: Or mobile phones, depending on the operators. My concern is that there is the activity going on under the Telecommunications Act that is unsupervised and that is why BT cannot publicly refuse that they are handing over information in bulk.

Q801 Mr Clappison: I should ask also, who is it being handed over to?

Nick Pickles: This is the question. We simply do not know. Questions in the House have been met with

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the usual response and everybody has refused to talk about it.

Mr Clappison: I suppose if we do not know who it is being handed over to we can't ask who is scrutinising it.

Mr Davis: The answer to my question was provided by Mr Brokenshire, so you may have an opportunity. Is he not appearing before you today?

Chair: Yes, thank you.

Q802 Dr Huppert: Could I just pick up this thing you said, Mr Pickles, about BT being unable to deny various things? Can you just amplify a bit on that and perhaps built on Mr Clappison's questions as well? What exactly could they not deny? Presumably, if they didn't have any orders under section 94 of the Telecommunications Act they could say that they had none. It just bans them from saying so if they do have any. Do you have any sense as to whether this is a widespread thing? Is this a BT-only thing? I would be very interested to hear what you have discovered about all of this.

Nick Pickles: My interest comes from the trip to the US where it became clear—and this was one of the first Snowden revelations in America—that particularly the Verizon Business Services were receiving orders under section 215 of the Patriot Act that were intended to be for named records or named customers and had been used to collect information on millions of Americans. The word “relevant” in the Patriot Act was the reason why Representative Sensenbrenner, who guided the Patriot Act through, highlighted this and why the President's review flags that the interpretation of that word does violence to the English meaning of the word “relevant”.

I asked BT categorically, “Does BT provide data in bulk on thousands or millions of customers who are not individually named in a RIPA notice to the UK Government or its agencies and, if so, under what legal authority?” I received absolutely no substantive answer to that question and I cannot imagine, given the severity of what that entails, why they could not deny that.

Q803 Dr Huppert: Presumably, if they were not doing it, they would be legally allowed to say, “No, we're not doing it”.

Nick Pickles: Absolutely.

Mr Davis: You would assume so.

Dr Huppert: Yes. There is a clear inference there.

Q804 Michael Ellis: Do you think that it performs a public service or would perform a public service in this country for officers of any of our security services to steal material from their employers and flee to Putin's Russia? Do you think that would perform a public service, Mr Pickles?

Nick Pickles: First, I think it is important to note that the reason Mr Snowden is in Russia is because his passport was revoked, not by any personal choice.

Q805 Michael Ellis: But do you think it would perform a public service to steal material from your employer? Would you think it was a public service if someone who worked for you stole material from you

because they thought that perhaps they did not like something you were doing and they fled to Putin's Russia? Do you think that would perform a service?

Nick Pickles: First, I think there is a very important point here of public interest. Mr Snowden took a decision that what he was seeing, particularly after a very senior member of the intelligence community told Congress they did not collect information on citizens, which now appears to be a lie or at least a deliberate untruth, exposing that lie was absolutely in the public interest. The fact he is in Russia was not a decision for Mr Snowden. It was forced upon him.

Q806 Michael Ellis: Right. Do you think that it is okay, as a point of principle, for our security services to be able to lawfully access landline and mobile communications of criminals and terrorists but not computer communications? Do you think there is such a difference in those forms of communications that for decades, perhaps even 100 years, security services or police may have been able to access landlines or mobiles but somehow computer forms of communications should be okay for criminals and terrorists to use?

Nick Pickles: No, absolutely not. I wrote a 3,500 word article for the *Journal of Counter-Terrorism* earlier this year explaining how the principles of directed targeted surveillance should apply on the internet. My concern and what Mr Snowden has revealed is the principles that underpinned previous surveillance, named suspects, targeted investigations, have been abandoned because the technology allowed it, which is why the President of the United States said, “Just because the technology allows us to do it does not mean we should”.

Mr Davis: It also introduces, if I may say, some new temptations. When the mechanism was attaching a couple of crocodile clips to an exchange and then listening in, that was self-limiting, only a few of those could happen at any point in time, so getting a warrant was not an issue. When you are accessing millions or even billions of records, then getting a warrant becomes something of a different problem, and so it does introduce a new problem.

Q807 Michael Ellis: Would you agree too, Mr Davis, that by its very nature, our law enforcement must keep up with criminal activity, and if communications have advanced to such a point, it is essential that our law enforcement follows criminal activity? Otherwise they will simply be able to divert their criminality from landlines and mobiles to another form of communication.

Mr Davis: Law enforcement should follow criminal activity. This is why it was important that the Judiciary Committee in the States, when looking at block metadata collection, the very thing we are talking about, challenged the claim of the agencies that they had stopped 54 plots. It started out as several hundred plots, then it was reduced to 54. The Judiciary Committee went through them and reduced it to one, which was a transfer of \$8,500 from San Diego to Somalia. There was not a single terrorist plot stopped by this mechanism, not one.

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Q808 Michael Ellis: Can I just ask, Mr Pickles, is it correct that Big Brother Watch are initiating legal action against GCHQ?

Nick Pickles: Yes, we have a case pending before the European Court of Human Rights.

Q809 Michael Ellis: You are using the Human Rights Act, are you?

Nick Pickles: Yes, we are.

Q810 Michael Ellis: What are you seeking to sue GCHQ about?

Nick Pickles: The two specific questions are the collection of data on millions of British citizens is a disproportionate interference with their right to privacy, and the second argument is that the quality of law means that an ordinary British citizen cannot read the legislation and understand in what circumstances they themselves may become subject to surveillance. This goes back to the point of RIPA being written before Facebook really existed and Google was still in a garage when that happened.

Michael Ellis: Thank you very much.

Q811 Chair: Thank you, Mr Ellis. You have just come back from Congress, from the United States, you have looked at their oversight, and the heads of their intelligence services have appeared eight times, on average, each year before congressional committees.

Mr Davis: That is correct.

Q812 Chair: Would you like to see the heads of our services appear more often, not just before intelligence and security, but other committees that may be relevant, such as the Foreign Affairs Committee or the Home Affairs Committee?

Mr Davis: Yes, I do, Chairman. I think that it is difficult for them, there is no doubt about it, and they have to have the option of saying, "I am sorry, I cannot answer that question" but it has enabled members of the committees—in fact, the Oversight Committee themselves—to put in the public domain things that they thought needed to be known to the public and, in particular, excessive surveillance. So I do think it is worthwhile. I think we are very similar to the United States. We have the same enemies, we have the same techniques, we have, broadly speaking, the same public standards, and yet they manage to maintain a level of openness in their surveillance that is completely different to what we manage here.

Chair: Indeed. Mr Pickles?

Nick Pickles: Absolutely, I would echo that, and I think the—

Chair: They have a better structure, you think?

Nick Pickles: They absolutely have a better structure. For example, the first time the CIA Director appeared on television was 1974, so I was pleased that we have finally caught up with that in all this time. I think one of the crystallising thoughts in the US was that as a result, the oversight committees do not have to act as spokespeople for the agencies, the agencies can defend themselves. I think in this day and age, when the revelations from Snowden broke, it was not unreasonable to expect the agencies themselves to

explain this to the public, rather than having to rely on the committees that are scrutinising them.

Q813 Chair: Because they are very well-known now, the heads of the agencies. It is not like before when they used to be unknown to the public. Most of them have ended up in the House of Lords.

Mr Davis: In this country, the last of the agencies to become public was the SIS in the 1994 SIS Act. I took that Act through the House of Commons and it was an explicit decision by the agency at that point to become public, so with that comes some responsibilities.

Just on the point of interrogation by oversight committees, Chairman, your Committee has already raised with the previous witness three occasions when our oversight failed. That was the dodgy dossier, to use the slang, rendition and 7/7, where they did not highlight the failures there, and they did not foresee Tempora and PRISM either. That is not the case in the States. The Intelligence Committee did foresee some of the issues that Snowden raised and raised them before Snowden broke.

Q814 Dr Huppert: Can I come back to this comparison between Britain and the US? I presume you are both familiar with *Yes, Prime Minister*, and there is a line there where Desmond Glazebrook says, "Good Lord, no. Any hint of suspicion, you hold a full inquiry. Have the chap straight up for lunch. Ask him straight out if there's anything in it". "And if he says no?" "Well, you've got to trust a chap's word." Do you think that is an accurate description—this is probably a little harsh—and how do you think it compares to what you found in the US?

Mr Davis: No, I think that is a little harsh, but nevertheless, there is a problem of capture, there is no doubt. It happens in the States too. I met Dianne Feinstein, the head of the Senate oversight, which is the more powerful of the two oversight committees, and she was very, very pro the agencies. She was behaving in the same way that Malcolm Rifkind behaves and his predecessors on his committee have behaved. He became like a spokesman for the agencies. But it should be said that last week—I do not know how many of the Committee have followed this—there was an upper and downer of a row in the Senate, and what the Chairman of the Judiciary Committee described as the greatest speech ever made in the Senate, when she attacked the CIA for monitoring and bullying the staff of her committee. So there is a robust relationship, and I think the aim when we created the ISC was it would metamorphose into a full-blooded Select Committee of the House with an elected chairman and the rest of it, and that has not yet happened. It is en route, I am sure, but it has to accelerate.

Nick Pickles: The combined weight of the President's NSA review, that is the Privacy and Civil Liberties Oversight Board review and that is the ISC review to date, I think that in itself is quite telling as to how informed the public debate is.

Q815 Dr Huppert: I was going to ask about those two reviews. How have they gone down in the US?

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How have they been accepted, how entrenched are they and how much resistance is there to implementation of their recommendations?

Mr Davis: Perhaps the first thing to say is who was on them. The President's panel was run by Richard Clarke, chaired by Richard Clarke, who was Bush's counter-terrorism head. Michael Morell was number two, I guess, the Deputy Director of the CIA, very well-known to our own heads here, and there were three other legal experts, all of them established pro-Obama legal experts. They came out with an incredibly rigorous and robust set of 46 recommendations, including effectively shutting down the mass collection programme of metadata, and incidentally, while they were at it, pointed out that the American agencies had already shut down on their own accord their email metadata collection programme. But anyway, to come back to your point, it was very, very well accepted, and people were shocked by how robust it was, but everybody accepted that it was the way to go.

Q816 Nicola Blackwood: I just want to take you back to your comments about bulk data versus having individual judicial oversight for each application for a warrant, and putting aside the morality of it for a moment, just ask about practical application, because assuming that there will be secret evidence required in order to prove the necessity for an application, do you think that this would have to be considered in camera or in CMP?

Nick Pickles: Obviously the Americans have the FISA Court, which is a secret court, and one of the recommendations from both reviews is that there should be a public advocate there, so there is somebody who can offer a differing point of view, rather than having a one-sided court. Inevitably you will have to use, I think—

Nicola Blackwood: Special advocates.

Nick Pickles: However, the special advocate system is certainly an option. I think the interesting thing across the board is now we have CMPs and post Justice and Security what purpose the tribunal still serves, given that the courts now have the ability to hear these cases, and the tribunal itself is quite a weak part of the oversight.

Nicola Blackwood: The Investigatory Powers Tribunal.

Nick Pickles: That is the American system.

Q817 Nicola Blackwood: You are suggesting that the Investigatory Powers Tribunal should be overtaken by judicial oversight through CMP?

Nick Pickles: I think so, so the tribunal as a redress mechanism, not as an authorisation mechanism. If you look at Judge Leon's ruling in the NSA where he calls bulk collection, "Almost Orwellian" that comes from a public judicial process with a public judgment and that is very valuable.

Q818 Nicola Blackwood: Yes, but once again, moving back to the practicalities and trying to work out how our court system would functionally approve 1,700 warrants through CMP annually, and possibly more, and if you are talking about replacing bulk

surveillance as well, I assume that that is going to spike, so I am just trying to understand what kind of bulk system you imagine would replace it.

Mr Davis: I would not worry too much about the 1,700 warrants a year. That is not very many, bluntly.

Q819 Nicola Blackwood: No, it is not, but if you are replacing the bulk surveillance as well and you are having to justify that as well—

Nick Pickles: As far as I am aware, there is only 10 certificates that currently exist for the bulk collection under section 8 and section 4. This was in the President's review when they found that you could get the same information from traditional investigations rather than using the bulk orders. That was mentioned repeatedly, so I think it is more a mind-set change than a bureaucratic change.

Mr Davis: There is no problem at all in holding those hearings in secret, because after all, we are not talking about locking somebody up, we are talking about just gathering their information. What is a problem of holding it in secret, which manifested itself with the FISA Court, is the court changed the law. In effect, the court took a new wording of law, the so-called use of "relevant" and used it to justify mass collection, which is a breach of the American Constitution. The problem of a secret court is simply there is nobody there to test the arguments that are being put and test the judgments of the court, but it is the best option you have, as it stands.

Chair: Thank you. We need to move on. I think David Winnick has a quick supplementary, then finally Paul.

Q820 Mr Winnick: Yes. There is some contradiction—perhaps I am wrong—between yourself and Mr Pickles, Mr Davis.

Mr Davis: Entirely possible.

Q821 Mr Winnick: Mr Pickles said that the American system is such that the Chair of the Oversight Committee does not act as a spokesman for the committees, but the criticism of Senator Feinstein is that she has constantly defended the committees, CIA and FBI—CIA in particular—but the only time she has criticised is in the last few days, when she has discovered that the CIA have hacked into the phones of her staff, who have been probing into the CIA. That seems somewhat of a contradiction.

Chair: We will have a quick response and then we need to move on.

Mr Davis: Very quickly, the committees that are not directly involved are the committees on judiciary, foreign affairs, defence and so on, all of whom have nominees on the Oversight Committee. They do not get captured. The oversight committees invariably, to some extent, get captured, even in America.

Q822 Paul Flynn: The Justice and Security Act last year is supposed to have made the Intelligence and Security Committee a credible, independent watchdog. Has it?

Mr Davis: No.

Q823 Paul Flynn: What shall we do?

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Mr Davis: I have already said I would make it a proper Select Committee of the House, elected by the House, with the chairman elected by the House from an Opposition Member.

Q824 Paul Flynn: I think we are indebted to you for publishing just how much these metadata contain, and when you see your activities on one day in Manchester—

Mr Davis: On just one day.

Paul Flynn:—and I think, like all members of the Committee, you are entirely blameless, going from one good work here and helping an old lady cross the road—

Mr Davis: From one bar to another, isn't it?

Q825 Paul Flynn: Nothing like that, no, no. It does seem extraordinary that there has not been a stronger reaction from the public to the amount of surveillance there is on what we would regard as our private lives. Why do you think this has happened when it has happened elsewhere in America?

Mr Davis: There are several reasons. The first reason is to some extent the fault of the press. The *Guardian* was very unpopular with other newspapers and it was the paper running with the story, but because of Leveson, nobody else wanted to help it. Part of it is down to our respective parties. Each of them has become very heavily involved in the process of winning government and not wanting to criticise it themselves.

Part of it is the Brits tend to be more trusting of their own establishment, but that is changing. If you had

done a survey six months ago of whether people thought this intrusion into their private lives was important, you would have had a very low number saying yes. Now the number has crossed 60% so it is beginning to gather pace, and that is why I think the Deputy Prime Minister and the Shadow Home Secretary both made speeches in the same week saying, "We have to get a grip of this".

Q826 Paul Flynn: Just a final one: do you, as an MP, believe that you can give 100% trust in what we are being told when there is a next occasion when we are asked to go to war?

Mr Davis: No, of course not. We have had three occasions, as I said, where the ISC fell down, and they fell down because of what they were told, not because they were bad people—they are good people—but because of what they were told, so no, we cannot.

Q827 Yasmin Qureshi: When you heard Sir Mark saying that he has only looked at 6% of the thousands of warrants, were you reassured by the fact that in his opinion, based on 6%, everything was okay?

Mr Davis: No, I think the Commissioners are good people doing impossible jobs.

Chair: That is a very quick answer, most grateful. Mr Davis, Mr Pickles, thank you very much for coming in.

Mr Davis: Our pleasure.

Chair: Mr Pickles, Mr Davis, if there is any further information you wish to submit to the Committee, please let us have it. Thank you.

Examination of Witness

Witness: **James Brokenshire**, MP, Minister for Security and Immigration, gave evidence

Q828 Chair: Apologies for keeping you waiting, Minister, and congratulations, you have now added immigration to your portfolio as the Minister of State responsible for security. This is quite a heavy workload you now have. I counted 52 different areas of responsibility that now come under you.

James Brokenshire: Good afternoon, Mr Vaz, and good afternoon to the rest of the Committee. Certainly the responsibilities I hold in relation to immigration and security are weighty, although the role that I had previously as Security Minister also added a range of other responsibilities that were not referenced in the title, so I was previously the lead Minister for the EU justice and home affairs policy, I was dealing with modern slavery, I was dealing with the National Crime Agency, organised crime, fraud, cyber, a whole range of additional responsibilities that—

Chair: They have now gone, have they?

James Brokenshire:—Karen Bradley has taken on. So while on the face of it, yes, it does appear a long list, there was a long list that was there before and those responsibilities have now been adjusted.

Q829 Chair: The Committee will look into this when we produce our next report. The Minister for Immigration has always been a fulltime job for one

person. Mark Harper and Damian Green had it as a fulltime job, because it is a priority for the Government. Obviously you are very experienced at security matters, because you have been dealing with it for four years.

James Brokenshire: Yes.

Q830 Chair: I think that our concern is to make sure that there is proper oversight of immigration and we will return to this later.

There is one issue that is in the public domain that perhaps you can help us with. You had something of a baptism of fire as Immigration Minister recently when you referred to the "wealthy metropolitan elite". Who did you mean by that?

James Brokenshire: Mr Vaz, the simple point that I was making was in relation to how uncontrolled immigration can have benefits for some members of our society, but how the most significant impact is on the least well-off, those on low incomes, those on low skills.

Chair: Sure.

James Brokenshire: That was the primary emphasis that I was making in my speech. That was the simple point.

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Q831 Chair: Yes, but you used the words “wealthy metropolitan elite” and the whole country thought this was a reference to colleagues of yours in the Government and those in the Opposition. Indeed, we discovered as a result of your speech members of your Cabinet were all telephoned by the press to ask if they were employing people who were not British-born, including the Prime Minister, the Home Secretary, who I understand has a Brazilian cleaner, your predecessor, the Deputy Prime Minister, who has a Belgian employee, and members of the Shadow Cabinet as well. What was the point of saying “wealthy metropolitan elite”? What were you trying to ask them to do, not employ people from abroad?

James Brokenshire: No. As I made very clear on the day, I was not passing any judgment on anyone. It was simply to make the point that some people had benefited, those who have—

Chair: Including all the people I have mentioned?

James Brokenshire: A whole range of people have benefited from immigration, as we have in our immigration policy, to ensure that our economy continues to grow and attract the brightest and the best.

Q832 Chair: Your actual words were, “Wealthy metropolitan elite who wanted cheap tradesmen and services” and the Prime Minister then made a very passionate defence of his children’s nanny. That was a good way to begin a very difficult task as Immigration Minister?

James Brokenshire: I think there was a very clear point that I wanted to make, which was that under the last Labour Government, immigration was out of control, and the impact on that was on the least well-off, those on low incomes, and that was the emphasis, if you read the full speech and read that full section on the point that I was making.

Q833 Chair: The Institute of Directors also read the speech and described it as, “It is feeble and pathetic to hear yet more divisive language from politicians on immigration”. That was the Director General, Simon Walker’s, statement on your speech. Have you managed to calm him down?

James Brokenshire: As I say, I think I said in the House that our emphasis is on attracting the brightest and the best, on ensuring that those who are skilled, who can contribute to our society of all different creeds, colours, backgrounds, from whichever part of the world they may come from, that they can contribute. I have underlined that point very clearly, and in my role as Immigration Minister, yes, I will be focused on reducing that migration; yes, I will be focused on immigration enforcement, but also I recognise the contribution that migration can have to the growth of our economy and why it is a question of control and sustainability, which is the clear message that I gave.

Q834 Chair: Did you inherit that speech from Mr Harper or was that written by yourself?

James Brokenshire: It was written by myself and my colleagues.

Chair: Cleared by the Home Secretary?

James Brokenshire: Yes, it was cleared within the Home Office, and I—

Chair: Was it cleared by Downing Street as well?

James Brokenshire: Certainly the main parts of the speech were shared externally, as one would expect of a speech of that kind.

Q835 Chair: Finally from me, do you think Mr Cable got the message, because of course you said on 6 March in that speech, “Rather condescendingly, on Monday, about immigration he wrote, ‘Politicians should start by sticking to the facts’. I suggest to Mr Cable that he might reflect on his comments and start doing this himself”. Do you think as a result of your very powerful speech that Mr Cable now gets the message?

James Brokenshire: My speech is on record, and I have had a very good subsequent conversation with Vince where we have been discussing issues where we can work together on supporting business and attracting the brightest and the best.

Chair: So it may have upset the Prime Minister and the Mayor of London, but Mr Cable gets the message?

James Brokenshire: I think that I have made some clear points in relation to who has suffered the consequences of uncontrolled migration, and I think that those are relevant and have received broad support.

Q836 Dr Huppert: Just quickly to follow up on this—and congratulations on the new role—presumably you will be making sure that any of this policy is evidence-based, and so taking account of the UCL study that showed a £22 billion fiscal benefit from immigration between 2001 and 2011, and the new report that was eventually published by the Government showing that what the Home Secretary had been saying about job displacement was not as accurate as it might be, presumably—

James Brokenshire: Just to be clear, Mr Huppert, that report did not make that claim, and it welcomed the research that the Migration Advisory Committee had conducted and that the Home Secretary referenced, and how it does recognise that uncontrolled immigration can have an impact on job displacement. That is what that report did say. It said that at times where specifically there may be high levels of immigration, and indeed at times of recession, that it can have that impact. It also, if I may just quickly, before you come back, does not take account of some of the broader issues on integration and also the issues in relation to, for example, the impact on public services and how that is equally relevant in terms of policy.

Q837 Dr Huppert: I am just trying to understand how that fits with the executive summary, page 4, “Overall, our assessment is there is relatively little evidence that migration has caused statistically significant displacement of UK natives from the labour market. The evidence also suggests that where there has been a displacement effect, this dissipates over times”. How do I fit those words that I am reading out from it with what you have just said?

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James Brokenshire: Because the report also goes on to say that it recognised the valuable contribution—I think it uses those precise words—in relation to the Migration Advisory Committee’s research and how that had contributed to the overall debate and assessment, and how also it highlights in that report that, for example, significant increases in EU migration have only been a recent phenomenon and therefore there is not that historic data, because the report that you reference effectively is a collation and analysis of historical reports and therefore it is looking backwards. It does not necessarily take into account some of these more recent phenomena that we have seen from, say, EU migration.

Dr Huppert: I am struggling to find that sentence anywhere in the report, but I am sure it is there.

Q838 Mr Clappison: Will you be as open to receiving representations from Conservative colleagues who believe that immigration control is important, that it has been uncontrolled in the not too distant past as well as the one that you have just received from the Liberal Democrat Member and from Mr Cable in favour of uncontrolled immigration?

James Brokenshire: I think we can safely say that immigration is a topic that will provoke lively debate on a number of different sides of the argument. I have set out clearly how I believe that controlling immigration is important for the impact on public services, on the impact of integration and, yes, how it can also impact on job displacement and hold wages down, which is why I come back to my central point on how this does impact on those least well-off and those on the lowest wages.

Q839 Mr Winnick: Much was made, Minister, as you know, of reducing immigration from the hundreds of thousands to the tens of thousands, that was the target. Am I not right in saying that to a very large extent you are nowhere near the target that was set at the beginning of this Government?

James Brokenshire: You are right in highlighting the most recent net migration statistics, which showed that while we have been successful in reducing net migration from outside of the EU by around 82,000, in relation to EU migration that has doubled over the last year. I was very clear on the day when the statistics were published in making that point, and indeed, in my speech itself, and it is why we are focused on cutting down on abuses of free movement—

Q840 Chair: What is the answer to Mr Winnick’s question: are you going to meet your target or not? That is what he is asking.

James Brokenshire: Sorry, I thought Mr Winnick was asking a broader point on where the figures were now, but our focus does remain on reducing net migration from the hundreds of thousands to the tens of thousands—

Chair: So you are still on target?

James Brokenshire:—so we are still focused on delivering that.

Q841 Mr Winnick: Minister, the accusation is often made, certainly in the past, that your party is particularly keen on what can be described as playing a race card. Your remarks, which the Chair quoted back to you, you would say that that has absolutely nothing to do with playing the race card and hoping it will work at the next election?

James Brokenshire: I absolutely and fundamentally reject that accusation. I believe that we have an incredible country that is blessed by so many different races and creeds and backgrounds. I had a very positive and I think warm and welcoming discussion when, for example, I attended the meeting last week with the National Congress of Gujarati Organisations in Harrow, and we had a very fruitful and positive discussion about migration and how they recognise the need for controls to be in place. Therefore I fundamentally reject any accusation of the kind that you appear to be making.

Q842 Michael Ellis: Do you also reject any suggestion that any talk of controlling immigration to counter Labour’s uncontrolled immigration policy over so many years is racist, which appears to be what has been suggested to you?

James Brokenshire: No. I think that there is a fair and proper debate in relation to having controlled immigration and that sense of sustainability, given that we have a picture that we see of net migration having been below 80,000 for every year prior to 1998 and above 140,000 for every year after 1998, and it is those on low incomes and low wages that have borne the brunt. Also, it is newly-arrived migrants that have also borne the brunt as a result of this, so to suggest in some way that there is that characterisation I think is wholly spurious.

Michael Ellis: I would like to ask, if I may, now about passports.

Chair: Sorry, we will keep passports for security.

Michael Ellis: Are we going to come on to that? I will come back to that.

Chair: Yes, we certainly will come back to passports. On immigration, then we must move on to security. Nicola Blackwood.

Q843 Nicola Blackwood: Thank you, Mr Chairman. Clearly uncontrolled immigration has difficult effects on the labour market, but it is valuable for our economy to have targeted admission for highly-skilled migrants, and I know that the Home Office has been bringing in the Chinese visas and also the tier 1 entrepreneurship. I just wonder what other steps you are intending to bring in to ensure that we can reap the benefits of immigration to ensure that we can make the most of that to develop a fully flexible labour market in that particular area.

James Brokenshire: Yes, because we also have our tier 2 requirements in relation to skilled working and ensuring that we are focused on attracting the brightest and the best. I was giving evidence this morning in relation to universities, and some of the graduate routes, the PhD doctorate route that allows people who have come here to study to then carry on in work in those specialised routes. I think when you look at the steps that we have put in place through the

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different routes of migration, yes, how they are targeted to support the economy, and while we have cracked down on, for example, students and some of the abuses that we have seen there, I have noted that despite that broad reduction, the number of visas that we are seeing from university sponsors has gone up by 7% on the latest figures that were published. I think that you can control immigration, that you can put in place those measures to ensure that it is focused in that way while maintaining our approach, which I continue to endorse, of attracting the skilled, the talented, the brightest and the best that will support our economy.

Q844 Chair: Let us move on. We will have the chance to probe you further on immigration on 1 April and explore in more detail who are the wealthy metropolitan elite, but not for today. I think we have to move on to security.

As Security Minister, two people escaped from their TPIMs, Ibrahim Magag and Mohammed Ahmed Mohamed. This is when you were Security Minister, as you still are. Have they been found yet?

James Brokenshire: The two individuals remain outstanding.

Chair: Remain outstanding? You mean they are still missing?

James Brokenshire: The police investigations are ongoing and that they have still not been accounted for, yes.

Chair: You mean they are still missing?

James Brokenshire: They have not been apprehended, so if that answers your question, then yes.

Q845 Chair: You are reluctant to say they are still missing and that they are not accounted for. Anyway, so they are still missing, and are you still looking for them? Is it still the view of the Government we should find these people or have their TPIMs now expired and there is really no reason to look for them anymore?

James Brokenshire: No, the police investigations still continue in relation to these two individuals and I would like to see them brought to justice.

Q846 Chair: As a result of the fact that they have gone missing, have you changed any of the processes or procedures in the Home Office to prevent anyone else going missing, or have all the other TPIMs now expired? How many are outstanding?

James Brokenshire: We do not provide a running commentary in relation to TPIMs, and there will be a quarterly—

Q847 Chair: We do not need a running commentary. Ministers have in the past always told a Select Committee how many people. We do not want to know what they are doing every day. We need figures. Is there anyone left on a TPIMs order, because of course they are about to expire?

James Brokenshire: What I can say, because we provide quarterly reports, the last quarterly report obviously was at the end of November when there were eight people on TPIMs at that point in time. It

is right to say that a number had expired on the basis of the two-year rule and we will be providing a confirmation to Parliament in the coming days on the normal quarterly reporting that will provide the full update in relation to TPIMs.

Q848 Chair: That is very helpful. Do you know when that report will be, Minister?

James Brokenshire: I cannot confirm to the Committee, but we are intending to report to Parliament very shortly.

Q849 Chair: Excellent. The Committee has heard a great deal of evidence about the number of British citizens who are travelling from the UK and going to Syria and other theatres of war. We noted the fact that Moazzam Begg, who originally started off at Guantanamo Bay, was released and came back here—you are familiar with his case—visited Syria, returned to the United Kingdom, was about to go to South Africa and then was arrested. What are your estimates? We have been given estimates of around about 400 people leaving the UK and going to Syria. Do you have any more accurate figures to give before this Committee?

James Brokenshire: It is very difficult to quantify in exact terms. Certainly the numbers that I have seen are in the low hundreds, so within the range or the ballpark that you have indicated. In terms of, for example, the whole of the EU, the numbers again that I have seen is that around 2,000 Europeans are thought to have travelled—

Q850 Chair: Where did those numbers come from, because we seem to have better figures from the EU than we have from our country? We know it is 2,000 from the EU, but we are unable to know our figures.

James Brokenshire: That is an overall estimate that has been put together and, therefore—

Chair: Yes. Where has that from, do you know?

James Brokenshire: I will confirm to the Committee, but certainly that is the number that I have seen reported to me.

Chair: Yes, we have seen those figures as well, but we do not know where they come from.

James Brokenshire: Whether they have come via Gilles de Kerchove, the EU's special representative in relation to terrorism, and have been encapsulated in that way, but perhaps I can provide the appropriate source to the Committee following on from this.

Q851 Chair: That would be very helpful. So what numbers are we putting? We have had a figure of 332 from the Metropolitan Police—which sounds pretty accurate—who may have gone abroad, up to 400, I think we were told. Do you have a better figure for us?

James Brokenshire: I am afraid I do not have a better figure, and the operational agencies such as the police would be best-placed to give that sort of indication.

Q852 Chair: Do they not give you any updates on figures or do they just give it to—

James Brokenshire: They will obviously give some information and I think the sorts of information that

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have been provided to the Committee are consistent with the numbers that have been provided to us.

Q853 Chair: One of the issues of course that concerns you and concerns this Committee is enabling people to travel on British passports when we know they are going abroad to participate in inappropriate activity. We have had evidence from Dr Thomas Hegghammer, who says that as many as one in nine people who return are then involved in domestic terrorism. He has not said that to do with the Syria issue, but certainly in previous conflicts. You sound surprised. Have you not heard that before?

James Brokenshire: No, I have not read that analysis, but it is interesting to try to contextualise in that way.

Chair: Sure. You have not been seeing the videos of this Committee. We will have to send you some CDs.

James Brokenshire: I look forward to it.

Chair: But if that figure is correct, it is an awful lot of people coming back and involving themselves in—

James Brokenshire: I have been clear in a number of the interviews and statements that I have made on the ongoing risks and issues relating to Syria, that I do see this as an issue that will be with us for the foreseeable future because of the numbers that have travelled and the risk attaching to individuals returning. I think we do need to view it in those terms and in that way, and therefore that is why an increasing proportion of the casework of the Security Service has that direct Syria focus attached to it.

Q854 Chair: Yes, but of course you have the power to confiscate—not you, but through the Royal prerogative the Home Secretary has the power to confiscate British passports—to stop people going abroad. How many times have you been able to do that?

James Brokenshire: The latest figures in relation to the use of the Royal prerogative, and this was introduced last April, where the Home Secretary made the change and underlined to the House the statement in relation to how it could be used to refuse or withdraw a passport from those we believe want to travel to take part in extremist activity, terrorist training or fighting, since then, the power has been exercised 14 times to disrupt travel.

Q855 Chair: So 14 individuals have had their British passport removed from them?

James Brokenshire: Yes.

Chair: That is since April 2013?

James Brokenshire: Yes.

Chair: Do you know or can you tell this Commission how many people have subsequently asked for their passports back of those 14?

James Brokenshire: I am not aware that there has been any formal request or legal challenge in relation to the exercise of the Royal prerogative to date.

Q856 Chair: In respect of those who are made stateless as a result of new legislation that the House has passed, you answered a debate on 11 February 2014. I think the whole House welcomed the fact that the Government was introducing legislation to make people stateless in certain circumstances. I think there

was a small rebellion. I think members of this Committee may have voted against, so it was not unanimous before they come in.

James Brokenshire: I can see from the shaking of the heads around the table that may not be unanimous.

Q857 Chair: But can you just clarify for us, once somebody is made stateless, they remain in the United Kingdom, don't they?

James Brokenshire: The powers under what was the British Nationality Act, of which this amendment derives from, does give the power to remove citizenship either within the UK or outside of the UK, and so it is possible that the power could be exercised within the UK. In those circumstances, obviously the individual would have restricted leave and it could mean that there may be deportation proceedings that could arise, because it is open to that individual to seek citizenship from another state, and indeed, as I think you will probably be aware, Mr Chairman, that a lot of the issues around this were triggered by Al-Jedda which the Supreme Court highlighted this distinction.

Q858 Chair: Of course, but it also means even though they are made stateless, if they do not apply for the nationality of another country, they remain in the United Kingdom and they can also apply to stay in the United Kingdom. They are allowed to do that, are they not? Doesn't that defeat the whole purpose of making them stateless?

James Brokenshire: No, because on that basis they would be analogous to other migrants with temporary leave and they would not attract the privileges associated with British citizenship. They would not be entitled to hold a British passport, they would not have full access to public services and therefore the denial of British citizenship in those circumstances can be an important statement to make in relation to those individuals.

Q859 Mr Clappison: Can I perhaps at this point ask for your help in clearing up something that emerged in evidence we took earlier from Nick Pickles of Big Brother Watch, because he referred to the bulk collection of information about people by a large telecommunications company, in this case BT. He referred to bulk collection by them of information about individuals and that information possibly being transmitted to Government agencies. He has supplied us with correspondence about that, and I think the tenor of his evidence was that British Telecom refused to say whether or not they supplied information in bulk about so-called metadata, I think it was termed, about individuals to Government agencies or the Government itself. We do have correspondence to that effect, in which BT have set out their position. Perhaps you can help us with this: do you know whether or not BT or any other telecommunications company supply data in bulk to any Government agency?

James Brokenshire: I have not seen the correspondence to which you refer, Mr Clappison, and therefore it is difficult for me to comment specifically

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in relation to the points that have clearly been raised by the last session.

Q860 Mr Clappison: Sorry to interrupt here. Can I just put to you the question that was in the correspondence, then I will give you a copy of the correspondence itself? It says, “Does BT provide data in bulk on thousands or millions of customers who are not individually named in a RIPA notice to the UK Government or its agencies, and if so, under what legal authority?” My question to you is very simple: do you know of any such provision of any such information in bulk by BT or any other company to any Government agency?

James Brokenshire: Clearly under the Data Retention Directive, communication service providers retain data, which is then subject to RIPA requests under the Regulation of Investigatory Powers Act for individual agencies to make requests for metadata or that communications data that they hold on to. Whether that is the specific point that you are raising or not—

Q861 Mr Clappison: Can you take a look? I think you have been supplied with questions. It is question 1, and it refers to, “Customers who are not individually named in RIPA notices”. If you could take a look at that, and if you wish to, the answer from BT is on the next page. You may have a different letter from me. I am sorry if that is the case. I think the letter from BT, I think in the words of Mr Pickles to us, does not answer quite that question. My question to you is simply this: do you know of the provision of any such bulk data by BT or anybody else?

James Brokenshire: There is a reference to section 94 of the Telecommunications Act, which Mr Huppert, I think, raised a question at a previous session in relation to the provisions of this Act, and the Secretary of State under those provisions may make orders under the Act that, for national security reasons, may not be disclosed. If the question relates to section 94 of the Telecommunications Act, then I am afraid I can neither confirm nor deny any issues in relation to the utilisation or otherwise of section 94.

Q862 Mr Clappison: Would such a provision fall under section 94?

James Brokenshire: The letter that you are referencing from Nick Pickles appears to reference section 94, and therefore I am assuming that that is the question that he is posing, and the response that BT has sought to provide must—based on what I am reading here for the first time, and you will appreciate that I have not had the opportunity to examine or to take advice on this—

Mr Clappison: Take just a moment to have a better look at it. Just have a better look at it, if you wish. Do read the letter in full, to be fair. I am trying to clear up what was said.

Chair: Mr Clappison, would it be helpful if the Minister wrote to us about this issue, to be fair, or do you want an answer now?

James Brokenshire: I wonder if it could be appropriate. I am not—

Mr Clappison: I am happy to have an answer. I was just hoping to clear it up in the view of the evidence we had been given earlier on.

James Brokenshire: Perhaps, if you would allow me, Mr Chairman, I can take the correspondence that has been presented to me away and I will take advice on how we can respond to the questions that Mr Clappison has raised, which the Committee has obviously had before it today. Is that all right?

Chair: That would be very helpful. Is that all right, Mr Clappison?

Mr Clappison: Yes.

Chair: Very helpful. Could we go back to passports? Mr Ellis was keen to come in.

Q863 Michael Ellis: Thank you. Minister, about the deprivation of British passports: this was a matter of some controversy, particularly from the Left previously. Is it correct within your knowledge that there was previously a power for incumbent Home Secretaries to deprive people of British passports and that was a power that existed until 1997 when it was repealed by the previous Labour Government and which we brought back about a year ago?

James Brokenshire: I think we are referencing here the use of the royal prerogative. The Home Secretary made her written ministerial statement on 25 April last year, which set out the revised criteria that are open to her to use her discretion under the prerogative to refuse or withdraw passports. That is the basis upon which this has been constructed.

Q864 Michael Ellis: That royal prerogative in the last 11 or 12 months has been used 14 times to deprive people of British passports.

James Brokenshire: Yes.

Q865 Michael Ellis: Something else was also said in relation to the Syria matter, which was about those vulnerable Syrians in need of direct humanitarian assistance and the question about assistance from the United Kingdom Government in domiciling them in this country. Has any progress been made in that regard?

James Brokenshire: Obviously we have provided significant humanitarian support to Syria, as you will be aware, Mr Ellis: the £600 million that was provide for support in region. But the Home Secretary did make a statement to the House in January about what is known as the Vulnerable Persons Relocation Scheme, in other words the contribution that we can make directly in this country to individuals who have been displaced and are in immediate and real need.

Michael Ellis: That is what I am talking about.

James Brokenshire: Since that statement was made we have been working closely with the UNHCR to identify the most vulnerable refugees and that is how the scheme is intended to prioritise help for survivors of torture and violence, women and children at risk or in need of medical care. We have, I think, been making good progress in relation to that. I can say that we do expect the first families to arrive in the UK before the end of this month and that we would then have a sequenced programme of more families arriving each month, working with the UNHCR.

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Q866 Michael Ellis: Can you say how many families?

James Brokenshire: I cannot confirm the numbers at the moment because it is precisely those steps that are being finalised through the UNHCR in terms of the support that would be provided here in the UK.

Michael Ellis: But this is a limited number of the most vulnerable families from the Syrian conflict?

James Brokenshire: It is. We have said we envisage that it will support several hundred people over the next three years and it is that steady progress that we do intend to make to reflect the perspective that we should be providing some specific help and assistance for those in the most need.

Michael Ellis: They start arriving at the end of this month, you say.

James Brokenshire: Yes, that is the timeline we are working to.

Q867 Michael Ellis: On the issue of the deprivation of passports—this seems to be operating at the rate of about one a month—do you expect that to continue? Do you expect there to be a surplus of them? Or do you expect that to be the average ratio, highly infrequent deprivations of passports?

James Brokenshire: I think it is fair to say in relation to the royal prerogative that it must be used proportionately and it will only be used in the public interest and sparingly. I think it is important that it is utilised in that way so I do not think I would like to make any predictions as to its future use. It will be used on a case-by-case basis and the Home Secretary does give very careful scrutiny and attention to the applications or requests that may be forthcoming.

Michael Ellis: Thank you, Mr Chairman.

Chair: Thank you so much, Mr Ellis.

Q868 Dr Huppert: Just before I ask a bit more about the passport/citizenship issue, in response to Mr Clappison you talked about section 94 of the Telecommunications Act 1984, and we just heard from the Intelligence Services Commissioner that he has no oversight of it and is not aware of anyone who does. Do you think that is satisfactory?

James Brokenshire: This is a matter that would fall within the purview of the Intelligence and Security Committee and it is not that this would not be without scrutiny; it is obviously within their role, responsibility and remit to be able to look at these issues that relate to section 94.

Q869 Dr Huppert: But none of the commissioners has that role at all. When did the ISC last do an inspection of it?

James Brokenshire: I cannot advise the Committee about that but clearly I have heard the statements that have been made by the commissioners in relation to it.

Q870 Dr Huppert: If I just move on to the issue of citizenship deprivation, in fact to amplify what the Chair said, the Committee voted three all with the Chair's casting vote being against it, as it happens, when it was voted on—not quite how these things work—and there are a number of issues with it. First just on a factual basis, how many British citizens have

had their citizenship stripped in relation to Syria since the war began?

James Brokenshire: What I can provide to you, Dr Huppert, because we do not differentiate and specify the nature of the breakdown in relation to these issues, is that since 2010 24 individuals have been deprived of British nationality on non-conducive grounds, and 17 on fraud grounds. Those are the overall numbers but I am afraid I cannot disclose further details of the precise reasons around that. If it would be helpful to the Committee I may be able to give some sort of briefing at a higher classification or on a confidential basis, if that may assist your consideration.

Q871 Chair: Do you have an answer to Dr Huppert's question about Syria?

James Brokenshire: I cannot provide that detail in relation to the overall number of the 24 and the 17 that I have referenced

Dr Huppert: It seems strange that this becomes a security matter to understand how many of them are Syria-related because it does it relate also to oversight. It is very hard to tell if these powers are being used appropriately if even a question like how many are Syria-related, which strikes me as a fairly general question, cannot be answered.

James Brokenshire: Deprivation of citizenship can relate to acts contrary to national security, unacceptable behaviours, war crimes, serious and organised crime. It covers through the definition of "non-conducive to the public good" a range of different factors. We have not provided a breakdown or analysis in relation to each of those different headings but I will consider what we may be able to share with the Committee on a confidential basis.

Q872 Dr Huppert: Thank you. One last question on this issue. Do you accept that what you are essentially arguing is that there are two categories of British citizenship: there is British citizenship that cannot be removed from somebody and there is British citizenship that can be removed from somebody? Is that your policy intention, to have these two categories of British citizenship and are there other areas where it would be important?

James Brokenshire: Deprivation of citizenship arises from section 40 of the British Nationality Act 1981. That is where this whole issue started off. Obviously while we have the new proposals in the Immigration Bill—which are currently before the House of Lords—in relation to the power to make someone stateless, there are powers already that if someone has gained British citizenship through fraud it is possible to withdraw the citizenship in that way. We are simply moving from an extant provision and applying it to circumstances that have been highlighted by the Supreme Court in terms of our overall international obligations and how we are able to extend it in the way that is contemplated consistent with our international-law obligations.

Dr Huppert: But you are still saying that of two people who do identical acts and are both British citizens, one could have their citizenship taken away and one could not, which implies two classes of British citizenship, surely.

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James Brokenshire: The powers under the relevant legislation obviously focus on naturalised citizens and to the narrow extent that the provisions apply, then the Act operates in that way. But I would underline that in relation to the new provisions that we are introducing in the Immigration Bill you would describe them as exceptional. The wording that we have highlighted is that we would have to satisfy a test that was seriously prejudicial to the vital interests of the UK and that is a much narrower test than already exists under the provisions of the British Nationality Act 1981.

Chair: Thank you so much, Dr Huppert.

Q873 Mr Winnick: Obviously there is concern about those who go to Syria to fight if only because of the dangers that the Government is perfectly aware of, as are the rest of us, that they could potentially be terrorists.

I saw an interview with a brother of the suicide bomber—the British person, presumably UK citizen, in Syria who was a suicide bomber—I do not know if you saw the interview—a member of the family in Crawley—and he strenuously denied that his brother, who I have just been referring to, would ever have been a danger in Britain. If you have not seen the interview perhaps you are not able to comment. But do you think there is quite a possibility that the argument that there are those who go out for what they consider to be a very just purpose, to fight the Assad regime, would not have the slightest wish to inflict harm here in the United Kingdom?

James Brokenshire: I think the real difficulty with all of this, Mr Winnick, is that people who travel to Syria risk almost certainly coming into contact with extremists linked to Al-Qaeda who may seek to exploit those individuals, to radicalise them, and therefore those individuals may pose a risk when they return to the UK because from the reporting I see, there are groups aligned to Al-Qaeda operating in Syria that would have ambitions to attack the west. I know people have that sense of wanting to provide humanitarian assistance for example, but in travelling to Syria they risk coming into contact with those group. You see some of this very disparate, fluid position on the ground there, how we have some of these extremist groups fighting and killing each other to take ground; to have a position. Therefore while some would seek to present it in a particular way, our very clear and stark advice is not to travel to Syria. The Syrian people and the Free Syrian Army have not said that they want foreign fighters in that direct sense. The Syrian people want humanitarian assistance. They want that diplomatic solution to the crisis in Syria. So we say that people travelling does not assist the situation and puts them in very direct and real risk to themselves.

Q874 Mr Winnick: Given that some do go—the numbers have been bandied about—what robust steps have been taken to deal with the situation as these people return to the UK?

James Brokenshire: Clearly the security service and the police monitor travel. There are means of assessing advance passenger information and at times

to prevent people travelling, as needs be, if there is a concern as to their risk. We have seen arrests and we have seen charges that have arisen on people returning. But that is not to say that everyone who has travelled, and travelled back, would provide that threat or risk to this country. The point is that within those who have travelled and travelled back there may well be a cadre within that group that either has been radicalised or has been tasked or who may by their actions upon their return galvanise others to then travel and thus perpetuate the circle. It is obviously those interests that the police and the security service resolutely have in mind in the action they take.

Q875 Mr Winnick: It is going to be a difficult one because as you say, it is quite likely that hopefully virtually all who come back will not have any desire to inflict harm on their own country. So you recognise how difficult it would be for the security and police authorities to try to find out if there is a potential danger.

James Brokenshire: That is their absolute focus and equally why I make the point that the challenges relating to Syria from a Counter-Terrorism perspective are likely to be with us for the foreseeable future.

Q876 Paul Flynn: Following what David Winnick has said, do you think it would be wise to prosecute some of these people when they come back from Syria? I think most of us are very surprised that British-born and British-educated Muslims feel so strongly about the issue in Syria that they are willing to risk their lives. If we do prosecute them, do you think it would intensify the alienation they feel and lead to more trouble?

James Brokenshire: My simple point at the outset is that I absolutely understand people's desire to help in Syria when we see all the appalling tragedy that we see played out on our television screens week in and week out. First the message I would say is that we believe that the best way for people to help is through humanitarian organisations that are able to provide aid and assistance directly. But in terms of people returning to the UK, each case has to be considered individually. Not everyone who has returned will have been involved in those terrorist organisations that I have referred to. If the police refer a case to the Crown Prosecution Service, they would have to consider that there is sufficient evidence for an offence to have been breached and if so whether it is in the public interest to prosecute. It does relate to the evidence that is there and the strong sense that the evidence supports that investigation and supports the CPS, who are independent of Government and independent in that sense on the decisions they take in bringing any action. It has to be grounded in examining each of those individual cases.

Q877 Paul Flynn: A gang leader from south London who was convicted of serious crimes including violence was recommended very strongly by the courts to be deported from the country because they assessed him as being a danger to the public. There was doubt about his country of origin and he was relocated without the knowledge of the local authority

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or the neighbours in a suburban street in my constituency. Is this a satisfactory situation do you think?

James Brokenshire: I do not know the situation of the individual case that you highlight, Mr Flynn, but I can understand the concern about the cause within your community. If you were willing to share some further details, then I would certainly be prepared to look into that.

Paul Flynn: I have taken it up and we are waiting for some action. We were informed that the only place he could be relocated in the whole of Britain happened to be in my constituency, which I find extraordinary, but I presume from your answer that there are no people in this category in your constituency.

James Brokenshire: I would like to look into the specifics as to why you have been advised on the basis that you have and I would hope to be able to report back.

Q878 Michael Ellis: Minister, on the issue of Syria and the Prevent strategy the Government has in dealing with the issue generally, the strategy tends to focus on the division between the West and some elements of Islam but what about a refocus? Bearing in mind the sectarian nature of the fighting in Syria, has some consideration been given towards a refocus of the Government's Prevent strategy towards divisions of a sectarian nature?

James Brokenshire: It is important to go back to first principles as to what the Prevent strategy was intended to deliver. We made a very conscious decision at the start of this Parliament that Prevent should be focused on preventing terrorism and preventing pathways to terrorism rather than on broader integration of community-tension issues and that that should be a matter for the Department for Communities and Local Government and for communities more generally. When I look at the threat and the challenge to this country from a security and a counter-terrorism perspective, the threat still does reside in principle terms from Al-Qaeda and from the groups that affiliate to Al-Qaeda's perverse narrative. So I think it is right that our Prevent strategy does retain that focus on that. Indeed I was in Waltham Forest yesterday meeting with community leaders and looking at some of the work that is taking place there as to that sense of communities coming together and providing that strong sense of cohesion to prevent extremism and radicalisation from taking hold in any way. They are doing a very good job there.

On issues of tensions within communities, if issues arise then absolutely the law is there to be upheld. On broader cohesion issues, then these are elements that I think that as the Government we need to have in mind, taking conscious account of the continuing strife, some of the tensions that we have seen in Syria and therefore whether that may have any resonance here. We have not seen that to date but it is something that we need to be alive to.

Q879 Michael Ellis: On a different point, one relating to your position as Minister for National Security, is there anything in connection with the disappearance of the Malaysia Airlines flight that you

are looking at with a view to the national security apparatus and structure in this country? You have mentioned for example that you still see a principle threat from certain quarters. Is there anything about that disappearance that you are looking at?

James Brokenshire: At this stage we are seeing how this appalling event is developing. It is difficult at this stage to form any conclusions. Obviously we take our aviation-security approaches extremely seriously. It is why we have the protective measures that we have: that we use our whole-body security scanners, explosive-trace detection equipment and other measures to help detect devices that we have seen before; and indeed in the EU cargo regime that we have advanced. It is also important to underline the issue of any potential risk of insiders. It is one that we take equally extremely seriously. All aircrew and other staff that work airside are subject to the same security screening on prohibited items as passengers are. Aircrew and others with access to aircraft and other sensitive areas are also required to undergo background checks. It is always that question of vigilance and being focused on risks as they occur but it is something that we do take very seriously.

Q880 Chair: Did it surprise you how easy it was to switch off the communications system, that it was on the dashboard and anyone could just switch it off so nobody would know where the plane was? Is this something that we can pick up in the way in which we look at aviation security? Obviously the searching of people who go on planes is something we do extremely well, especially at airports. But this must have come as a surprise to you that somebody could just in the cockpit switch off a communications system by the flick of a switch.

James Brokenshire: As I have highlighted on the background checks that are undertaken, we do recognise the issue of insider risk in relation to this. I am sure that everyone will be reflecting on this incident as and when we get better understanding of precisely what has occurred. At this stage the facts are still very thin.

Q881 Michael Ellis: If I could just come back on that, we do not know at this stage exactly what happened, and I understand from reporting that there may be some reason why the ACARS and other similar systems can be switched off in routine circumstances, but will the Government undertake to continue to look at all of these wider issues to see if any lessons can be learned and to see if we can keep these sorts of procedures and situations under constant review to minimise risk?

James Brokenshire: Of course. We remain vigilant to the risk and are obviously informed by the assessments provided by JTAC—the Joint Terrorism Analysis Centre—and others in relation to the overall security picture and the threat picture and clearly will respond to new information and details as they emerge. I think everyone is looking very closely at what information will be forthcoming in relation to this.

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Q882 Dr Huppert: Minister, I think this morning you were at the House of Lords Science and Technology Select Committee. I hope that went well. We have had police officers giving evidence to the Public Accounts Committee. We have had community and local government Ministers coming here. Quite often these things are interdisciplinary and cover several different areas. In the US the agencies can be questioned by the intelligence committees, the judiciary committees and various others but uniquely here the Government seems to insist that only the Intelligence and Security Committee can ask questions of the agency heads and you will know the Home Secretary refused to allow any of the agency heads to come and talk to this Committee. Why is that? Why do you not want any other parliamentarians to be able to ask some questions, obviously with safeguards for information that needs to be kept secure?

James Brokenshire: I think the Home Secretary addressed this in detail when she appeared before this Committee just before Christmas and I do not think there is much more that I can add to the contribution that she made. The Intelligence and Security Committee, which has been strengthened with additional resourcing as a result of the measures that this Government has introduced through the Justice and Security Act 2013 is able to handle sensitive material and therefore is able to question—and, I know, questions robustly—the agencies in relation to their work. We have seen the first public hearings, which are something I talked about when taking the Justice and Security Bill through the House of Commons, how I hoped that that would happen. That has now happened and I think that we have seen a continued development in relation to the scrutiny of the agencies, which I welcome. I believe that it is right for the ISC to be given the opportunity with their enhanced powers and with the enhanced staffing they have received as well, to do that job.

Q883 Dr Huppert: Nobody is saying they should not be allowed to do their job. The question is why all other parliamentarians are barred from doing our jobs, because that is the consequence. Nobody would suggest that you should not go and talk to the House of Lords Science and Technology Committee because they do not have the specialist background in immigration stuff that we have. Everywhere else there is this understanding. In the US it seems to work fine. Will you at least go back and have a look at whether this could be opened up because it would probably be good for the agencies if they were seen to be more protected and other people could ask questions, though I, of course, accept there are things they would not be able to say in public session.

James Brokenshire: We consulted on this on the *Green Paper* that preceded the Justice and Security Act on various different models—whether an inspector general would be a different model that would work—and we considered that at that point and decided that we would retain the existing commissioners but strengthen the ISC. Careful thought was given to the oversight arrangements and

I believe that, as the House has recently legislated on this, we should allow the ISC to get on with that job.

Q884 Dr Huppert: The House did not legislate on whether other committees could have a look. But in the US, as I understand it, elected representatives are automatically given access to classified material upon election. Why do you think the US trusts elected representatives at that sort of level and this Government does not?

James Brokenshire: I cannot comment on the US system. What I can comment on is the UK system with the Intelligence and Security Committee: its work and the way in which it has been strengthened; the oversight of the agencies through the Secretaries of State and through the commissioners themselves. I believe that we have very robust system and one of the strongest systems in the world to provide that level of oversight.

I think the handling of sensitive material is one that does need to be conducted with care, how we can ensure that information that is secret remains secret and particularly how it could be to our disadvantage if it came into the hands of those who have malign intent against this country.

Mr Winnick: I do not think he really believes what he says.

Chair: Order, Mr Winnick

Q885 Yasmin Qureshi: Minister, I know there has already been a question about taking away citizens' nationality or citizenship. It is a question that many members have asked. I know Mr Ellis says it is an obsession of the Left that they always seem to be against taking people's citizenship away. I have to say, I hope you heard me, it is not always a case of Left and Right because the Honourable Member for North East Somerset, not a well-known left winger, said that the Queen should not have two different sets of citizenship; that if you have citizenship, everyone should be equal. You have the bizarre situation that I can have my citizenship stripped away but not Mr Flynn, sitting next to me. I am not sure it is a question of Left and Right. I am sure it is a question of fairness. Can I ask two questions? Can you ask the Home Secretary, and perhaps the Government, to reconsider this because it is first unfair? Secondly—and this is the more important thing—would you agree with me that if you take away somebody's citizenship you cannot deport them because they need to have documents to be able to travel to another country? They do not apply for nationality of another country. You cannot get rid of them from the country. So was this just a cosmetic exercise?

James Brokenshire: I think, Ms Qureshi, that it is important to understand that the policy approach had been informed by the Al-Jedda case and that the focus had been on individuals that could access the citizenship of another country. I recognise how the approach that is set out in the Immigration Bill can leave someone stateless but the focus had been on individuals who had been able to apply for another citizenship. It is also worth underlining that the law as it exists today embodies that distinction on naturalised citizens and how steps can be taken to remove

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citizenship in certain circumstances. That is what the law already says and it is simply in these exceptional circumstances where we judge that it would be seriously prejudicial to the vital interests of the UK—so this is a very high bar that we are setting in those circumstances—that that reserve power is justified.

Q886 Yasmin Qureshi: Going back to you about taking away someone's citizenship if they are naturalised as opposed to being born into the citizenship, do you not think it is fundamentally unequal and unfair to have effectively two classes of citizenship? Forget about the fact that it is existing law. Do you not think there is something fundamentally unfair about this?

James Brokenshire: I suppose the point is that the grant of citizenship by this country is a privilege that obviously brings with it certain responsibilities and duties. That is why it is in these exceptional circumstances that we believe a reserve power in that very circumscribed way is appropriate and why we are bringing forward the provisions that are contained in the Immigration Bill.

Chair: Very helpful.

Q887 Paul Flynn: You did not hear the evidence of Mr Davis, your colleague, earlier on.

James Brokenshire: No.

Paul Flynn: He is less optimistic about the role of the Intelligence and Security Committee and he had very strong views about that. He did suggest that as Members of Parliament, if there was another conflict in the world and we were looking for advice, the advice is likely to be unreliable. Do you have absolute confidence that we will not be misinformed as we were in 2003, 2006 and on 7/7?

James Brokenshire: I believe that the changes we have made through the Justice and Security Act to strengthen the ISC have bolstered its work; that with the oversight provided by Secretaries of State, commissioners, and the enhanced ISC, as well as the way in which the work of the agencies is circumscribed through the legislation, the robust challenge that is provided by the commissioners—I did not hear your earlier session but I know that the commissioners do provide that robust challenge—that all that does set us as has having one of the strongest regulatory regimes anywhere in the world around our intelligence and security agencies. I do believe that. It was something that we did examine through the Green Paper, as to what further enhancements or steps were to be made. That is what has led to the changes to the ISC and I believe that that has been for the better.

Q888 Paul Flynn: I am sure you will find it an inspiring and informative experience to read the evidence of Mr Davis and Mr Pickles on their trip to Washington where they have an entirely different view from yours.

On the question of building counter-terrorism capacity overseas, we spend a relatively small amount on this: about £30 million. Do you think we should do more to invest in projects, on areas such as strengthening institutions against corruption and on improving border controls in other countries?

James Brokenshire: The overseas Justice and Human Rights partnership-work and that capacity building that you reference is something that is led by the Foreign Office. The Foreign Secretary, I think, set out clearly the challenges that he identified on ensuring our ability to work with countries that may not adhere to the human rights and rule of law standards that we operate in this country. I think he is right to fasten upon that. The Foreign Office has been taking forward a number of projects around work on human rights and legal compliance, on evidence basis—on ensuring that you are relying more on evidence than confession—and I think that that is to the good. With those capacity-building works the Foreign Office does scrutinise all project applications, ensuring they deliver value for money, and they are confident that we can deliver our planned work within the funding arrangements for this year and next year and that is obviously funded in large measure from the Foreign Office's counter-terrorism programme fund, which is the £30 million you referenced.

Q889 Chair: Could you just clarify precisely what is happening with e-Borders? We had evidence from Sir Charles last week to say that e-Borders was now terminated and rolled into a new border-systems programme. Whatever it is called—and I appreciate that you have written to the Committee about this—is it still the Government's intention that there should be full exit checks by the time of the general election on 7 May?

James Brokenshire: Yes. I think Sir Charles did highlight this point in his letter to the Committee where he said that the Home Office is committed to delivering exit checks by 2015. This has not changed and that is reliant on our API—Advanced Passenger Information—coverage as supplemented by embarkation checks at ports as well. That does remain our focus and our commitment and how our work on this broadened into our border systems programme, which is looking at a number of the different systems that the Border Force utilises.

Q890 Chair: As far as the internet is concerned, this Committee has heard a great deal of evidence to suggest that radicalisation has moved out of the classroom and madrasas and on to the internet with 500 million tweets every day; 100 hours of videos being uploaded to YouTube; 300 million photographs uploaded on to Facebook, some of them by the fighters overseas in Syria. Are any new approaches being made by the Government to the internet companies?

James Brokenshire: I know you know, Mr Vaz, that we have our Counter-Terrorism Internet Referral Unit that identifies illegal material and seeks to take that down.

Chair: Yes, and we saw them for ourselves last week.

James Brokenshire: I can update the Committee that the last number I have seen of the amount of material they have taken down has now reached, I think, 29,000 items. So there is active work that the CTIRU is doing. But I am very conscious of the need to continue to work with industry. I have been having discussions with them around one of the themes that

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you touched on in a previous Home Affairs Select Committee report—we do read these things—on codes of practice, for example; on the way that internet companies respond to requests or flagging by our police units that have responsibility for this. Equally the potential use of filtering of material and the work of those companies themselves. On material that is not unlawful there is a threshold that is set that the CTIRU working with the Crown Prosecution Service will examine and attest to but equally there is material that does not necessarily cross that threshold but in the same way that family filters would wish to filter other material, that is a separate category that companies themselves would wish to make their own decisions on whether that is appropriate for them to host in that way. So it is that part of the broader discussion that we are having, as well as the opportunities for those companies to support different and more moderate voices in some of this debate. Again that sense of capacity building within communities so that there is a broader debate around some of these things, whether this be on travel to Syria or otherwise, I think is very healthy. I believe that this Committee itself attended an event with Google last week around some of these themes and it is that sort of initiative that I am very keen to encourage.

Q891 Chair: We welcome that. Let me end where we began by congratulating you on your new portfolio. You have been before this Committee for

the last four years and you have clearly been a very competent security Minister. The concern of this Committee is taking on a whole additional job as Minister for Immigration. I am not saying that you are not able to do it. You are clearly a very safe pair of hands and the Home Secretary has great confidence in you. But it is a very large area and this Committee has produced many reports about the immigration service, which resulted in part in the decision to abolish the UKBA, take it back into the Home Office. These are two very big jobs and we are not saying that you are not capable of doing it, by any means, but we are concerned on the scrutiny basis, that with 42 separate issues that you need to deal with, it is a tall order for even someone as able and as effective as yourself.

James Brokenshire: The Home Secretary has obviously asked me to take on the responsibilities that I hold and I think that there are opportunities here in terms of the way in which the security agenda and some of the work around immigration does dovetail, around security at the border, which does cross over into both of these arenas. As I say, having held and organised crime and Counter-Terrorism brief before, plus EU, plus other things on top of that, there is insight that I am able to bring in relation to both sides of this and I will obviously be doing my utmost to fulfil those responsibilities to the fullest of my abilities.

Chair: We are sure you will. Thank you very much for coming here today.

James Brokenshire: Thank you.